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COMBATING INEQUALITY: THE TAX CODE AND RACIAL, ETHNIC, AND GENDER DISPARITIES

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDRED SEVENTEENTH CONGRESS

FIRST SESSION

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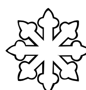

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COMBATING INEQUALITY: THE TAX CODE AND RACIAL, ETHNIC, AND GENDER DISPARITIES

TUESDAY, APRIL 20, 2021

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 10:01 a.m., via Webex, in the Dirksen Senate Office Building, Hon. Ron Wyden (chairman of the committee) presiding.

Present: Senators Stabenow, Cantwell, Carper, Cardin, Brown, Bennet, Casey, Whitehouse, Warren, Crapo, Grassley, Thune, Toomey, Scott, Cassidy, Lankford, and Daines.

Also present: Democratic staff: Sarah Schaefer, Senior Tax Policy Advisor, Small Business and Pass-Throughs; Joshua Sheinkman, Staff Director; and Tiffany Smith, Chief Tax Counsel. Republican staff: Gregg Richard, Staff Director; Mike Quickel, Policy Director; and Don Snyder, Tax Counsel.

OPENING STATEMENT OF HON. RON WYDEN, A U.S. SENATOR FROM OREGON, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. This morning the Finance Committee will examine issues of racial justice and tax code inequality in America. Nobody of good conscience wants there to be a race-based penalty or a discount on taxes. Everybody ought to pay their fair share, and everybody ought to have a fair chance to get ahead. In practice, the U.S. tax code doesn't always work that way.

If America's busted old tax code excels at anything, it is rewarding those who are fortunate enough to already have wealth. The lucky few with the top incomes can go years deferring their taxes, paying what they want when they want to. On the other hand, there is no deferral for a black nurse who pays taxes out of every paycheck, or a Latina small business owner who pays taxes quarterly.

According to a recent survey, a typical white American family has eight times the wealth of a typical black American family. Some of the cornerstone tax policies in America include well-intentioned tax incentives for home ownership, education, and retirement savings. Those incentives only really work for people who can afford to buy homes and set aside money for education and retirement. Those people are much likelier to be white.

The committee is going to hear a lot more examples like those today illustrating how the tax code adds to inequality in America.

The fact is, some recent changes have made the situation worse. An estimated 80 percent of the individual benefits of the Trump tax law went to white Americans. Even the benefits that went only to the top 1 percent of taxpayers were skewed the same way.

The American Rescue Plan enacted in March begins to change the math of racial injustice and tax code inequality. It expanded the Earned Income Tax Credit for millions of working people. It expands the Child Tax Credit and makes sure millions more working families will receive the full amount available. Too often, families and individual workers with lower incomes, particularly black and Latino, haven't had access to those full benefits.

Those expansions are going to be game changes for workers and families in Oregon and across the land. They ought to be permanent, and I am working with members of this committee to make that happen.

Now, inequality is not just about race. It is about gender. Women business owners, particularly women of color, are underrepresented, under-capitalized, and underappreciated. The share of business revenues that go to women-owned businesses hasn't budged in 20 years. It is stuck now at 4 percent.

Along with Senator Cortez Masto and Senator Hassan, Senator Cardin and I are introducing the PROGRESS Act that is going to help boost that figure. Our bill is all about promoting investment in women- and minority-owned businesses, and helping them to grow and to hire more workers.

Finally, policy-makers need better confidential data on how tax laws affect Americans of different races. Other Federal agencies collect that type of demographic information, and policy-makers can use it to improve them. The IRS does not.

The fact is, the tax code is not strictly about government funding. Congress decided long ago to use the tax code to tackle major social and economic challenges. The words black or white or Asian or Latino or Native American do not have to appear anywhere in the tax code for tax laws to affect those groups differently. Too often those differences are adding to inequality.

Now, the IRS needs to meet a higher standard of confidentiality due to its history and the sensitive nature of taxpayer information. That said, it makes no sense to blind lawmakers to the key data that would illuminate injustice in our tax laws. It is time for more tax data transparency. This committee is going to make sure that happens in a manner that fully protects the privacy and confidentiality of each American's taxpayer information.

I am looking forward to discussing those issues and more today. There is a lot for us to cover. I want to thank our witnesses.

[The prepared statement of Chairman Wyden appears in the appendix.]

The CHAIRMAN. Senator Crapo?

OPENING STATEMENT OF HON. MIKE CRAPO, A U.S. SENATOR FROM IDAHO

Senator CRAPO. Thank you very much, Mr. Chairman, and welcome to our witnesses. I look forward to hearing your experiences, thoughts, and ideas today.

There are questions of whether the tax code by itself leads to differing impacts across race, gender, age, or geography, or whether it is the underlying income, wealth, asset-holding, or job type disparities that principally cause these differing results. Underlying disparities are key, and it is important to know about them. There are a variety of disparities in measures of income, wealth, and assets across many dimensions. Examining the disparities using statistics shows a variety of results, along with changes in results over time. The Pew Research Center, for example, recently identified that income inequality for Asian Americans rose to become the highest among racial and ethnic groups.

Underlying causes of these disparities are not entirely clear, since causality is difficult to establish. As a result, there are different views. Some views focus on government policies, while others stress inequities in opportunities for education and asset building, along with changing patterns of family formation and institutions like marriage.

Today our witnesses will provide perspectives on the income tax system, barriers to opportunity, policy solutions and issues that we should consider, along with economics.

Prior to the pandemic, the United States was experiencing one of the strongest economies across demographics in decades. With the Tax Cuts and Jobs Act in place and an agenda focused on smart regulation, we saw progress among many dimensions, including record low unemployment rates for African Americans, Hispanics, and others; 50-year lows in overall unemployment; robust wage gains skewed toward lower-wage earners; record high household incomes; and record low poverty.

The TCJA included a number of provisions to make the personal income tax system more progressive, addressing these inequalities, including doubling the Child Tax Credit, nearly doubling the standard deduction, and features such as Opportunity Zones to inject more financial capital into distressed communities.

It will be interesting and increasingly challenging to return to an economy as robust as we saw before the pandemic, with the endless streams of tax hikes and regulation that the current administration continues to propose.

Going the opposite direction of combating inequality in the tax code are efforts like trying to roll back the cap placed by the TCJA on State and local tax, or the SALT deduction. I expect some of the proposals we will hear about today will have promise, and others may not actually get to the root of the problems we are addressing. I am eager to hear more.

Whatever we consider, it will be important that the policies are developed on a bipartisan basis. No one party has a monopoly on good ideas, and any work on persistent barriers to opportunity will ultimately fail if done in a partisan fashion.

I look forward to our hearing today, Mr. Chairman, and thank you.

[The prepared statement of Senator Crapo appears in the appendix.]

The CHAIRMAN. Thank you, Senator Crapo. I look forward to working with you and our colleagues on these issues.

Now I would like to introduce our four witnesses.

Professor Dorothy Brown is a professor of law at Emory University School of Law, where she teaches tax. She is a nationally recognized scholar in the areas of race, class, and tax policy.

Dr. Mihir Desai is an economist and professor of finance at Harvard Business School, and a professor of law at Harvard Law School.

Our next witness, Ms. Himalaya Rao, is the managing director of Black Founders Matter Fund and is a fellow Oregonian.

Our final witness is Mr. Shay Hawkins, president and CEO of the Opportunity Funds Association. Mr. Hawkins previously served on the Finance Committee as the Staff Director for the Subcommittee on Energy, Natural Resources, and Infrastructure, of course with our colleague Senator Tim Scott.

Thank you all for coming. As is customary, your prepared statements will automatically be made part of the record. Please use your 5 minutes to summarize.

Please proceed, Professor Brown.

STATEMENT OF DOROTHY A. BROWN, ASA GRIGGS CANDLER PROFESSOR OF LAW, SCHOOL OF LAW, EMORY UNIVERSITY, ATLANTA, GA

Ms. BROWN. Thank you. Thank you for inviting me to share these views on how our tax system perpetuates racial inequality.

In my testimony today, I will draw on research in my book, *The Whiteness of Wealth: How the Tax System Impoverishes Black Americans—And How We Can Fix It.* I plan to discuss three tax policies that are more likely to provide tax breaks for white Americans than black Americans when they engage in the same activity.

But if there is one thing that I hope you remember from my testimony today, it is that racial inequality is baked into how our tax laws operate, not because the Internal Revenue Code has separate rate schedules by race, but because American taxpayers bring our racial identities onto our tax returns. That not only harms most black taxpayers, but inevitably some white taxpayers as well.

Understanding how this racial disparity happens is difficult, because the Internal Revenue Service does not publish statistics by race. I have had to become a detective of sorts.

Another piece to unraveling the racial disparities is understanding the role of history. Many of our current tax provisions date back to a time when separate but equal was the law of the land. I begin with the joint return that entered the code in 1948.

The joint return is a tax cut for marriages where one spouse earns roughly all of the income, while the other spouse works in the home. Census Bureau data I analyzed show that white married couples were more likely to be found in marriage bonus households than black married couples.

That means that when white Americans marry, they are more likely to get a tax cut, but not black Americans. Married black Americans are more likely to be found in two equal wage earner households, and do not get a tax cut. In many instances, the joint return has led to married black couples paying higher taxes. And there has always been a percentage of married white couples who also need two incomes to make ends meet. My solution is a return to individual filings and a repeal of the joint return.

The second provision is the exclusion of gains on the sale of homes for up to half a million dollars if you are married, or $250,000 if the taxpayer is single. The tax treatment for gains dates back to 1951. Losses on the sale of homes, on the other hand, are not deductible.

Research shows us that the greatest appreciation in our homes comes when we live in neighborhoods which are overwhelmingly white with very few black neighbors. As the percentage of black homeowners in the neighborhood increases, the value of the homes decreases. Most white homeowners live in mostly white neighborhoods, while most black homeowners live in racially diverse or all-black neighborhoods. As a result, white homeowners, but not most black homeowners, are more likely to sell their homes at a large tax-free gain.

Research also shows that the homeowners most likely to sell their homes at a non-deductible loss are black. Tax subsidies for home ownership create white tax winners and black tax losers. The Federal Government should stop subsidizing a racist home ownership market.

The final area I want to highlight is the tax break for employer-provided retirement accounts. The tax break traces its roots to 1942. Amounts set aside in retirement accounts by employees—and if there has been an employer match, amounts set aside by their employers—are not taxable to the employee until their expected withdrawal at retirement.

If any amounts are withdrawn prior to the age of 59½, they are subject to an additional tax penalty. Black Americans are less likely than white Americans to work for employers that provide retirement accounts. And further, black workers, regardless of income, are more likely than all other racial and ethnic groups to take an early withdrawal and pay a tax penalty.

Given that less than half of white workers, a little over a third of black workers, and a quarter of Hispanic workers in the private sector participate in their retirement accounts, tax subsidies should be withheld until the private sector increases their employee participation rates.

In *The Whiteness of Wealth,* I discuss many other areas where our Federal tax policies disadvantage black Americans, but they all lead to the conclusion that our tax laws need a fundamental overhaul that places racial equity at the center.

I look forward to your questions.

[The prepared statement of Ms. Brown appears in the appendix.]

The CHAIRMAN. Which you will hear in a few minutes.

Our next panel member will be Professor Mihir Desai, an economist and professor at Harvard Law School. Sir, welcome.

STATEMENT OF MIHIR A. DESAI, Ph.D., MIZUHO FINANCIAL GROUP PROFESSOR OF BUSINESS, HARVARD BUSINESS SCHOOL; AND PROFESSOR OF LAW, HARVARD LAW SCHOOL, HARVARD UNIVERSITY, CAMBRIDGE, MA

Dr. DESAI. Thank you for the opportunity to participate in these hearings. I want to use this opportunity to make five points that are elaborated in my written testimony.

There is a staggeringly persistent and large correlation between race and income, savings, wealth, and mobility. Addressing these correlations should constitute an essential ambition for all policy-makers. The tax system, in an effort to isolate the ability to pay, employs income and the returns to wealth to raise revenue in an efficient manner.

The returns to wealth are often granted preferential treatment relative to labor income in order to encourage certain behaviors, or to offset the lock-in effect associated with the realization-based system.

Looking at certain preferences in isolation will yield the conclusion that these preferences have a disparate impact on racial subgroups. This statement, as far as it goes, is incontrovertible. Indeed, it is unsurprising when one considers the correlations discussed already.

The remaining three issues raised by this result are far less straightforward. Specifically, is this analysis complete? What should we take away from this analysis? And might such an analysis lead us astray?

The result that specific provisions, when considered in isolation, impact racial subgroups differentially is a qualified one and can be highly incomplete when handled loosely. In particular, when analyzing the intersection of tax policy and racial justice, three errors should be avoided.

The first issue is that analysis of tax policy should trace through the incidence of benefits or taxes beyond the claimants of any particular benefits. The ultimate beneficiaries of tax policies are rarely only nominal claimants. I provide an example in my testimony of the LIHTC, an important provision that would yield nonsensical results if analyzed in the manner described above.

The second issue is that revenue neutrality is an important discipline on tax analysis. Isolating a preference to benefit the subgroup is not enough to assert that it should be repealed, because that preference exists in a larger system that requires financing. The discipline of revenue neutrality can yield counterintuitive results. My testimony provides an example of how the repeal of the mortgage interest deduction could result in a less, rather than a more progressive system.

The third issue is that the broader tax system must be considered in examining the impact on racial subgroups. Given the correlations of wealth and race identified above, it is not surprising that preferences for the returns to wealth may have a disparate impact on racial subgroups.

It would also not be surprising if progressive income tax rates and refundable tax credits would also have a disparate impact on racial subgroups in a distinct direction. Said another way, it is critical to consider the totality of the tax system if one is to assess the racial impacts of the system.

Given data I provide on the progressivity of the tax system, it would be unwise to extrapolate from an analysis of savings preferences to the whole tax system. Tax analyses that consider race can also go astray. When seeking solutions to these problems, analysts have dismissed tax credits and progressivity in support of

radical solutions, including blowing up the tax code and starting from scratch.

These claims can be self-defeating for the cause of racial justice because they underemphasize the role of current provisions in advancing the agenda of racial justice. The real promise of this hearing, and of an increased emphasis on race, ethnicity, and gender, is to reorient our policy debate away from its current obsession with inequality broadly, and toward a sharper focus on those in our country in deep need.

Over the last 20 years, academic studies that claim sharply rising levels of income and wealth inequality have become accepted as fact, and undergird much policy discussion today. Related studies claim that the tax system does little to address inequality, and that novel instruments are required to address these issues. These studies and the obsession with rising inequality are problematic for many analytic reasons that cast the results in doubt.

Moreover, they are problematic because they orient attention to the very rich and away from the other parts of the income distribution, particularly the bottom quintiles of income distribution. It is curious that many of the efforts do not mention or measure the Earned Income Tax Credit in their discussions of economic justice, despite its role as a critical anti-poverty program.

In this sense, the broader inequality debate obscures the readily available solutions for racial and economic justice—the EITC and more progressive rate structures—and focuses our attention incorrectly on issues of corporate taxation, the possibility of wealth taxation, greater middle-class tax relief, and broad-based entitlements.

Expanding the EITC in two directions, with a refundable minimum credit, and with a larger childless EITC, would be enormously beneficial to the causes of economic, racial, and gender justice. Over time, providing more income to those at the bottom income distribution will allow them to begin saving and building wealth.

Reparations would seem best suited to address the question of the racial wealth gap. It is worthwhile noting that comparable efforts at reparation, including those for Japanese Americans, payments to Holocaust survivors, the Truth in Reconciliation Commission, and local American efforts such as those in Rosewood, FL, did not employ the tax system. That is, I believe the reparations debate should be initiated in earnest and could address the racial wealth gap in interesting ways. But there is no clear, obvious reason to operate it through the tax system.

The true payoff of this hearing will be if the underlying correlation of race with income, wealth, savings, and mobility regains its status as a question of central importance to the future of the country.

I very much hope you all find the courage and wisdom to address these questions as directly as one can in the tax code and otherwise.

[The prepared statement of Dr. Desai appears in the appendix.]

The CHAIRMAN. Professor, thank you; thank you very much. And wisdom is certainly in need on Capitol Hill right now, and we thank you for being here.

Our next witness is Ms. Himalaya Rao, one of my neighbors in Portland. And we are so glad that you are here, Ms. Rao, and please proceed.

STATEMENT OF HIMALAYA RAO-POTLAPALLY, MANAGING DIRECTOR, BLACK FOUNDERS MATTER FUND, SALEM, OR

Ms. RAO. Thank you so much, Chairman Wyden, Ranking Member Crapo, and members of the committee. Thank you so much for the opportunity to present to you today.

My name is Himalaya Rao, and I am the managing director of the Black Founders Matter Fund, which is a venture capital firm based out of Portland, OR, investing in black entrepreneurs throughout the United States.

We are an early-stage fund, which means we invest right alongside, or right after angel groups, which is really early in our founders' journey. They may have some initial traction like a minimum viable product (MVP), or some initial customer validation, but we are really the ones who are giving them both the capital and the resources to be able to grow and scale their businesses.

As you might notice, I do not look like someone who would be the typical face of someone in venture capital. There are very few women in this space, and even fewer women of color. I am also a first-generation immigrant to this country, and my career actually started out in the Bronx as a school social worker working with children and families—so, very far from venture capital. No one in my immediate family has actually gone into business, so I went to get my MBA so that I could learn the language on how to navigate this space effectively.

And it was there in my MBA program that I first was introduced to entrepreneurship and venture capital. And to me, venture capital is the perfect merger between social work and business, because every single day I get to be part of the redistribution of wealth from very wealthy individuals to founders on the ground who are working tirelessly to create new and innovative solutions to small and systemic problems.

When I started out my career, I positioned myself as a venture capital consultant. And in the first few years, I had the opportunity to work across seven different funds. This gave me a unique vantage point to be able to see how different firms operate in this space. But it also made me realize that even when there is a huge amount of willingness to invest in diverse founders, there are significant barriers to actually achieving that outcome which, for the most part, haven't changed in the last 10 years.

And so, as I reflected on what those challenges are, I reduced it down to three central issues that I have elaborated in my testimony, which I will present to you today.

The first is that investors engage in a pattern-matching behavior to evaluate startups. So what that means is that we utilize our past experiences to determine the propensity for, if a founder or a venturer has the ability to be successful. And that is an entirely normal way for humans to process information, but it really poses a threat to equity in this space. And that is because historically venture capital—and entrepreneurship—has only been an option for a small subset of wealthy white men.

So, if you think about it like an algorithm, all the inputs we are using to determine what success looks like are based on an incomplete data set that is also not representative of the types of ventures or founders that are present today in the United States.

The second issue is that we also engage in homogeneous groupthink. Oftentimes in this space, there are a lot of initiatives to try to promote demographic diversity. And while that is absolutely critical and foundational to creating representation in this space, we also often overlook the absolute necessity to include people with different values, different socioeconomic statuses, and different education, to create a true environment where there are people with different lived experiences, and therefore the inclusion of people who have different ideas about what success can look like.

And the final issue is that there are not currently enough on ramps for different types of individuals to become investors and participate in this space. I have laid out several key recommendations in my written testimony, like tax incentives, investor reeducation, student loan credits, and changes to legislation on who can participate in this space.

I encourage the committee to consider ways in which we can support the greater participation along three stakeholders. That would be BIPOC founders, BIPOC emerging fund managers, and BIPOC investors, to be able to then create a better environment where investors and fund managers like myself can be better representatives of founders and Americans at large.

We all have implicit bias in our decision-making process, but if we can create a broader sense and a broader level of representation and participation in this space, we can actually start to create a more equitable space for all founders to have equal access to capital and growth.

Thank you again for giving me this platform to advocate for founders and the inclusion of diverse and BIPOC founders.

As a first-generation immigrant, I believe that our differences are what make us and this country continue to stand at the forefront of innovation. I am honored to be a part of that solution, and invite any questions you might have.

Thank you.

[The prepared statement of Ms. Rao appears in the appendix.]

The CHAIRMAN. Ms. Rao, thank you very much for excellent testimony. I also want to note at this point that your highlighting the shortcomings of algorithms in some of these issues is critically important.

I am the sponsor, along with Congresswoman Clarke and my colleague Senator Booker, of the Algorithm Accountability Act. So we are going to want to follow up with you on your important points there.

Our final witness is an alum of the Senate Finance Committee, Mr. Shay Hawkins, formerly with our colleague, Mr. Scott. Welcome, sir.

STATEMENT OF SHAY HAWKINS, CO-FOUNDER AND PRESIDENT, OPPORTUNITY FUNDS ASSOCIATION, WASHINGTON, DC

Mr. HAWKINS. Thank you so much, Chairman Wyden, Ranking Member Crapo, and members of the committee. It is a pleasure for me to be with you today. This is my third time I have testified before Congress, but my first time testifying before the Senate. So I thank you for having me.

I am the co-founder and president of the Opportunity Funds Association. And this morning I would like to share a few success stories from Opportunity Zones. I would like to discuss ways to build wealth through expanded retirement savings. I would like to remind the committee of the ways tax reform made the tax code more equal. And finally, I would like to suggest a couple of policies to get investment capital into the hands of minority entrepreneurs.

Prior to co-founding OFA, I served as Tax Counsel to Senator Scott, where I helped him champion Opportunity Zones. And in Opportunity Zones we are seeing wealth being built through diverse projects and diverse leaders.

Quinn Palomino was born in Vietnam right at the end of the Vietnam War. She grew up in refugee camps that the U.S. had set up at Fort Chaffee, AR. Today, Quinn leads Virtual Partners, a global private equity firm that was active in social impact prior to Opportunity Zones, but has raised $100 million across four Opportunity Funds to build a combination of commercial real estate and affordable housing nationwide.

Two weeks ago, I was in Panama City, FL, where Jorge Gonzalez of the St. Joe Company broke ground on a waterfront hotel and stand-alone restaurant on the Panama City Marina. This project will create 150 direct jobs for current residents and rebuild a portion of Panama City that was completely devastated during Hurricane Michael.

Alex Bhathal, managing partner of RevOZ, a leading real estate investment firm specializing in Opportunity Zones, will cut the ribbon on an 11,000 square foot office project. This facility will house San Bernardino County's Children's Department of Behavioral Health, providing mental wellness care to some of the most vulnerable and underserved members of that community.

We can also build wealth through retirement savings. According to the Federal Reserve, the bottom 50 percent of American families hold less than 2 percent of total U.S. wealth and have a median retirement savings balance of zero. This committee did great work towards helping to mitigate that when this committee developed the SECURE Act.

Another promising way to address this challenge was outlined in a recent paper from the Economic Innovation Group by a bipartisan pair of economists, Teresa Ghilarducci and Kevin Hassett. The authors propose a new program modeled after the highly successful Thrift Savings Plan. This would be aimed specifically at helping lower-income workers build wealth and retirement security. If it is properly designed, a program like this could go a long way towards narrowing the racial wealth gap.

And finally, Congress should do no harm. In tax reform, we placed a cap on the State and local tax deduction. We doubled the

Child Tax Credit. We doubled the standard deduction. And we put a limitation on the home mortgage interest deduction.

And so particularly, when we are looking at the State and local tax deduction, we should not lift that cap. Representative Alexandria Ocasio-Cortez recently called SALT "a gift to billionaires." And I cannot say that I agree with the Representative often, but on this issue the math is on her side. And uncapping SALT is a nonstarter for those concerned with income inequality in the tax code.

I also look forward to discussing ways that we can use the tax code to draw money into the hands of minority entrepreneurs, and I will address that in the Q&A.

Thank you.

[The prepared statement of Mr. Hawkins appears in the appendix.]

The CHAIRMAN. Let me begin, if I might, with you, Professor Brown. Let's see where you are, Professor Brown; very good.

Your testimony makes clear that by giving tax breaks to those who are already wealthy, the tax code perpetuates longstanding inequality.

It seems to me it is even worse than that. The black family with the exact same pay stub as a white family is less likely to own stock than the white family. Can you briefly describe your research with respect to stock ownership by black households, and how that plays into their ability to benefit from the capital gains tax rate?

Ms. BROWN. So research shows that black Americans, pretty much regardless of income or wealth, are less likely to own stock than white Americans. In fact, there was a study of the top 5 percent of black wealthy Americans, and it showed they were less likely to have stock than white Americans. And the benefit of owning stock in the current tax code is, tax rates are much lower.

So if I had a choice, I would rather have my wages taxed at the low preferential rate that currently stocks are taxed at. So because black Americans are less likely to own stock, they are less likely to take advantage of that tax break.

The CHAIRMAN. Now, it seems to be compounded by the fact that billionaires do not need to sell their capital assets. They can avoid paying any tax at all in the deferral loopholes in the tax code.

Does the ability to defer taxes on capital assets, sometimes indefinitely, add to the racial wealth gap, in your view?

Ms. BROWN. Absolutely, because what a wealthy parent can do is buy stock, have it appreciate significantly, and not sell it. When they die, they leave it to their child as an inheritance, and the child gets it tax-free with a stepped-up basis, which, you know, means something to those on the committee, but people hearing it may not know. So let's say my parents—well, not my parents—let's say some parents bought stock at $10,000, and when they die, their stock is worth $100,000. Their child inherits the stock, $100,000, tax-free. The next day, the child sells the stock for $100,000. They have no taxable income because our tax laws give them a $100,000 basis equal to the fair market value. So that taxable gain will never be taxed by anyone.

So yes, wealth is transmitted through gifts and inheritances, and white Americans are more likely to receive that than black Americans.

The CHAIRMAN. Thank you very much, Ms. Brown.

Let me turn to my Oregon neighbor, Ms. Rao, if I might. We are interested in your highlighting what you consider to be the top challenges for minority and female entrepreneurs in obtaining capital. And we are introducing some legislation today that is going to begin to speak to this, but I would be interested in what you think the top challenges are to getting capital.

Ms. RAO. Thank you, Senator. So one of the top challenges that I noticed in my career in venture capital is that, even when there are platforms for black and brown founders to be able to pitch their ideas, there is a lack of representation on the investor side to be able to understand and articulate the strengths of those individuals who are pitching.

And so early in my career, what I started to do was to be the translator between those black and brown founders and investors. And so investors are looking at a fixed set of criteria in order to consider a company investment, and what I would do is to be able to formulate the ideas of black and brown founders in a way that captures what investors are looking for.

And I believe that with greater representation of different lived expierences on the investor side, that there will also be a greater propensity towards seeing what different models of success can look like, and thereby increase capital assets to black and brown founders.

The CHAIRMAN. Now today, several of my colleagues—Senator Cortez Masto, Senator Hassan, Senator Cardin, and I—will be introducing two new tax incentives, trying to flow benefits into the hands of minority and female business owners.

The first is a tax credit for hiring, first, an employee—an incentive to hire that person. And the second is an investment credit to encourage investments in the smallest of the small businesses, those owned by individuals earning less than $100,000 per year.

In your view, would these credits help with the challenges that you are describing for women- and minority-owned businesses?

Ms. RAO. Thank you, Senator. I absolutely agree that the two proposals that you mentioned will help to funnel in capital and, more importantly, will help to increase the participation of different types of investors, to be able to funnel in money into different types of businesses.

Oftentimes, that representation is overlooked, and I do think that both those proposals for the first employee credit, as well as the investor credit, will help to incentivize participation.

The CHAIRMAN. Well, thank you, Ms. Rao. My time is up, but we are really appreciative of having an important Oregon voice on this. We know we have a lot of heavy lifting to do in this area, and we look forward to working with you and all of our very good witnesses today.

It is now Senator Crapo's turn.

Senator CRAPO. Thank you, Mr. Chairman.

I am going to go first to you, Professor Desai. We have heard a lot lately about income and wealth inequality. And it is a very critical issue. Some have recently claimed that the Federal tax system may have become regressive, despite the longstanding and overwhelming evidence to the contrary.

In fact, even progressive economist and former Treasury Secretary Larry Summers commented recently on some of the recent analysis, saying that it is, quote, "substantially inaccurate and substantially misleading."

A question that I have for you is, we have heard today that there is inequality caused by the joint filing allowed for people who are married, by the mortgage interest deduction for people who own homes, and for those who are investing in their retirement savings. So you have marriage, home ownership, and retirement savings as the target for changes in the tax code.

If those changes were made, if those deductions were disallowed and removed, I understand that that would cause those who are married, and those who own homes, and those who have retirement savings, to pay more taxes. But would it reduce the burden on those who do not, on those who are truly at the lower income quartile and do not have as much access to home ownership and retirement savings?

Dr. DESAI. Thanks, Senator Crapo. So yes, first I think, on this industry of folks who are suggesting that the tax system is regressive and it has become less progressive over time, I provide evidence in my testimony that suggests that is just wrong. And I think it is very problematic. You know, it is problematic because it shifts attention away from what we should be thinking about. It makes us think that we can solve our problems by taxing billionaires, and by supposedly getting hundreds of billions of dollars that are in offshore tax havens, neither of which I think is true. It is distracting to the plight of people on the bottom two quintiles.

It is very important for wealthy Americans and corporations to pay their fair share, but fundamentally I think this is distracting. And in that process, we lose sight of the instruments that will actually help us and help the folks who we really, I think, want to try to help on the bottom two quintiles.

To your question about the specifics on marriage, and home ownership, and retirement accounts, you are exactly right to say that perhaps narrowly this could help in some way. But in the context of the overall tax system, one has to ask, well, where would those revenues go? How would they be used? Who would benefit from them? And maybe more importantly, it does not really address the underlying problem which was, I think, in the colloquy between Senator Wyden and Himalaya, about building wealth at the lower end of the income and wealth distribution. That I think is a much more interesting discussion than the discussion of looking at particular preferences on savings and suggesting they have a disparate impact on racial subgroups.

Senator CRAPO. Well, thank you. I agree with you. And my next question will be directed at you, Mr. Hawkins. But before I give it, I really think we ought to be focusing on things like strengthening and enhancing the EITC, strengthening and enhancing Opportunity Zones, strengthening our access to retirement savings so that people can get into the business of putting some money away for retirement savings.

And Senator Warner and I worked on a piece of the capital access in one of the last bills, where we helped to give significant expansion to our Community Development Financial Institutions, en-

couraging and incentivizing access to capital in those areas. Those are the kinds of solutions that it seems to me we should look at.

Mr. Hawkins, my question for you is, the Tax Cuts and Jobs Act did a number of things to simplify and increase progressivity of the personal income tax system, and I am going to just list a few: doubling the standard deduction; expanding the Child Tax Credit; expanding the alternative minimum tax exemption; enacting Opportunity Zone incentives; passing the SALT deduction; capping the mortgage interest deduction; and limiting the exclusion for employer-provided fringe benefits.

Do you agree with the Joint Committee on Taxation analysis showing that the TCJA made the personal side of the income tax code more progressive? And do you think that any of the list of provisions I just identified, including the cap on SALT deductions, should be rolled back?

Mr. HAWKINS. You know, it is clear. I do agree with the Joint Committee on Taxation. It did make the tax code more progressive. And none of those items that you mentioned should be rolled back, particularly the SALT cap. I mean that is objectively oriented toward the absolute 1 percent, and should absolutely not be repealed.

Senator CRAPO. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Members to ask questions, we have our colleague Senator Stabenow and then Senator Scott.

Senator Stabenow?

Senator STABENOW. Well, thank you very much, Mr. Chairman. And thank you to everyone for really important testimony today. This is such an important topic. It is interesting to me that when we discuss tax policy, and just as an editorial comment, our colleagues, our friends on the other side of the aisle, view tax policy, tax cuts, really as a primary solution to so many issues, but will only talk about this one, and tax policy is not viewed as a part of the solution, which I find interesting.

As chair of the Democratic Policy and Communications Committee, last year at the beginning of the pandemic, after the first couple of months, I released a report on the disparities, the impacts of the pandemic on minority communities, in health care, which were obvious, and housing and small business, and who our essential workers were. But we did not really focus on tax policy, which is why I think this is such an important discussion.

I wonder, Professor Brown, if you would want to talk any more about the tax code and your efforts and seemingly neutral terms and items that actually create disparities. I know you have spoken about this, but in the context of the last questioning on whether or not this tax code is important to address, if you might just say a few words about that.

Ms. BROWN. Thank you so much. I think it is important that we focus on racial disparity impacted by our tax laws, and I do not think it is enough to say you cannot do it in isolation. Because my argument is that we should not do it in isolation. We should look at everything.

And what is really important is, my research shows this is not a function of class. It is not only that black Americans pay more taxes because they are disproportionately poor, it is black Ameri-

cans at all income levels. If we want to talk about wealth building, who is better able to build wealth? Those with higher incomes.

But our tax laws disadvantage black Americans at all income levels when we are doing the same thing our white colleagues do. So I think it is important to talk about race and taxes, and I applaud the committee for this hearing.

Senator STABENOW. Thank you so much. And also I would throw this question, Professor Brown, to you as well, but also Dr. Desai. Recently President Biden signed an executive order creating a cross-agency group with a mandate, as you know, to address systemic racism in the U.S. Government, which would include gathering data to track the effects of policies on disadvantaged groups.

And although the government analyzes discrimination, again in lending and housing and employment and so on, it generally does not focus on tax policies. And so what challenges do you and other researchers face in studying the effects of tax policies on households and businesses, and what steps can Congress take to ensure on the front end that tax policies do not enforce or exacerbate wealth disparities?

Ms. BROWN. So, as I said in my testimony, I have had to become a detective of sorts, because I could not go to the statistics of income at the IRS and see which taxpayers paid and which got exemptions. So it has been really hard. It has taken me a couple of decades. I am glad we are on the other side of it, and I hope going forward that it changes.

So, yes, there is the executive order that put together a data group, but we have to see what fruit that bears. I think Congress, going forward, could make a point of putting together a racial impact statement, for example, for any proposed tax provision to see how we would expect it to impact Americans by their racial identities.

Senator STABENOW. Thank you.

Dr. Desai?

Dr. DESAI. Yes, thanks for that question. And I think, you know, Professor Brown has done decades of research on this, and it has been difficult. I think the issue today is about collection of data and analysis of data.

So the first thing on the analysis of data is, we actually know many things from her research and many other researchers about disparate holdings of wealth, about income levels, that one could use to make this analysis happen. So I am not sure there is a need for additional collection of data.

Second, I just think it is worth, again, saying that we would want to think about the totality of the tax system in doing that analysis.

And then finally, I would say my big concern would be kind of the politicization of the analysis done by the JCT and others, which is so valuable for tax policies. And in particular, for many provisions—I give the example of the Low-Income Housing Tax Credit—it would be very, very difficult to analyze the racial impact. And it will require really heroic assumptions. And the collection of additional data will not necessarily help with that.

So I think this is an incredibly important agenda. But to me, I think a lot of the data is in place to do what we need, if we want to do that.

Senator STABENOW. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague for her good questions. And I think, Professor Brown, what you are saying is, it is time for a bit more tax transparency to make it a little bit easier for those in the detective business. I thank you for your important points.

Our next colleague will be Senator Scott.

[No response.]

The CHAIRMAN. Is Senator Scott here?

[No response.]

The CHAIRMAN. Okay; our next colleague will be Senator Cantwell, followed by Senator Thune.

[Pause.]

The CHAIRMAN. All right; next we have Senator Carper, and then Senator Toomey.

Senator Carper?

Senator CARPER. Yes, Mr. Chairman. Good morning.

The CHAIRMAN. Good morning.

Senator CARPER. Good morning, and hello to all of our witnesses. Thank you very much for joining us today.

When I was Governor in Delaware from 1993 to 2001, what we focused on for those 8 years, among other things, we focused on how do we strengthen the basic building block of our family structure. And that is what we did for 8 years, and we created something called the Family Services Cabinet Council. We started literally from birth. And we—I think we made great progress. The current Governor has picked up the Family Services Cabinet Council. He used to be a member of my cabinet, and we still have the Family Services Cabinet Council, seven departments within State government that work together to help families through the life of kids and families.

One of the things that I have always focused on, as some of my colleagues know, is root causes—not just the symptoms of problems, but root causes. And I asked my staff to dig up some information looking at the number of children who live in single-parent homes in our country, and to do that by race; also, to analyze what percentage of families are led by solo parents. It is pretty interesting information when we think about root causes.

And I do not think we are focusing as much on root causes as maybe we could or should. Out of all solo parents, 42 percent of those are led by a Caucasian—42 percent of the families with solo parents are Caucasian—28 percent are black; 24 percent are Asian; and 3 percent are Hispanic.

And there is a different way to ask the same question. The question is something like this: with respect to percentages of children who live in single-parent homes by race—I will say it again—percentage of children in single-parent homes by race, 15 percent are Asian; 24 percent are Caucasian; 42 percent are Hispanic or Latino; and 64 percent are African American.

And I think those sets of data are worth our consideration as we focus on not just the symptoms of problems, but how to deal with them as we think about root causes.

I also asked my staff to help me actually analyze the ways we try to help lower-income families—Latino, white, black, Native American, whatever—and the ways that we are trying to help incent work and to help in capital formation.

And among the programs that we were looking at were the Earned Income Tax Credit—which has been discussed here—hugely important; retirement programs that actually allow people who have very low income to sign up almost from Day 1 when they start their employment, the kind of stuff they do in Oregon, as the chairman knows, in a very good program out there; Opportunity Zones; the CHIP program, the Children's Health Insurance Program; tax breaks to incent marriage; child care funding. And we are doing a whole lot of that, actually, through the ARP: student debt repayment assistance; Affordable Care Act, the tax credits in the Affordable Care Act; the money that we are providing for food banks across the country through all of our COVID packages.

WIC, the WIC program, and SNAP, that used to be food stamps and now it is SNAP; Medicare Part D, drug assistance for folks on Medicare; Medicaid expansion. We used to be down about 70 percent. Now we are up to like 130 percent for Medicaid expansion States.

Child Tax Credit, which we have expanded in the most recent package; GI bill. When I was coming home from Southeast Asia and enrolled in the business school at the University of Delaware, the GI bill was about $250 a month. Today, the GI bill provides tuition free and a housing allowance for GIs and their families, anywhere from $1,000 to $2,000 a month. Delaware Tech in my State, they have a C program. Anybody who graduates, I think, with a C-plus or more from Delaware high schools can go to Delaware Tech tuition-free for 2 years. And Delaware State University—which is the third-ranked HBCU in America out of all the public HBCUs—Delaware State University is ranked number three.

They have a scholarship program, I think it is worth about $4,000 a year in tuition assistance. The majority of folks who receive that are students of color. I mention those things just to toss out a little bit of background, to put this in context as we think, not just about the symptoms of problems and how we deal with those.

I want to come back to Opportunity Zones. I would ask our friend, our last witness, to just go back and just tell us again what more can we do to improve and better target Opportunity Zones so that they actually do help minority families, minority businesses?

Mr. HAWKINS. Well, thank you, Senator. You know, one thing that we can do to help target Opportunity Zones to minority businesses—there are three levels of benefit associated with Opportunity Zones. And one level is to allow for a 100-percent step-up in basis on the capital gains on the business that was started within an Opportunity Zone.

And so, for the purposes of that benefit, we can allow non-capital gains to be invested. If folks want to hold the investment for 10 years plus, and then move forward and sell that business, then they will be able to sell that business capital gains tax free.

In the original Investing in Opportunity Act, the legislation which Opportunity Zones are based off of, that was a feature. And

for scoring purposes, it was difficult to put it in in tax reform. However, allowing non-capital gains to be invested long-term for 10 years plus, with a 100-percent step-up in basis if that business is sold, would bring a lot more capital into Opportunity Zones, and a lot more into the hands of minority entrepreneurs who are less likely to have access to investors with capital gains tax liability.

The CHAIRMAN. We are going to have to move on, Senator Carper.

But I know our next questioner, Senator Scott, will probably be interested in the very question you have been talking about. So we will continue this dialogue.

Senator SCOTT. Thank you, Mr. Chairman. Thank you to Senator Carper for making it easy for me to transition into my questioning on Opportunity Zones of Mr. Hawkins.

Mr. Hawkins, I was going to ask you a question about Opportunity Zones later on during the process here, but let us just continue the conversation that Senator Carper was so gracious to begin.

I will say without any question, if you look at the commitments, the dollar amount commitments from the private sector to some of the most distressed communities in our country through the Opportunity Zones legislation, it is over $70 billion in my understanding. Is that about right, sir?

Mr. HAWKINS. That is about right. What you have seen is about $15 billion that has been committed to the Opportunity Fund, the actual vehicle that makes the investments, and then that money is then levered up when it is invested into the actual Opportunity Zones, sometimes two, three, four to one.

Senator SCOTT. Would you also agree, Mr. Hawkins, that Opportunity Zones, while one of the more important parts or aspects of the legislation is to bring private capital into distressed communities, another very important feature is not to gentrify those neighborhoods? And thus far, we have seen in the single digits gentrification. Is that still accurate?

Mr. HAWKINS. That is still accurate. So about 2 to 3 percent of the designated Opportunity Zones that Census tracks that were eligible for this type of investment were on an Opportunity Zone trend prior to being designated as an Opportunity Zone. And so we have seen that gentrification so far in the designated zones is no more severe than it was in the trends that existed prior to being designated.

Senator SCOTT. That is incredibly important, because I have said this several times: if the definition of creating better communities is to run people like me out, as a person who grew up in poverty in a single-parent household, if the definition of improving a neighborhood is to push me out, that does not work for me.

So I am very pleased and excited to hear that Opportunity Zones continue to produce more opportunities for typically majority minority areas in a way that does not necessarily lead to gentrification.

Mr. HAWKINS. Absolutely. And one of the key things that we need in order to maintain that trend is we need—I would love to see you reintroduce your IMPACT Act, which provides reporting and transparency for what is happening in Opportunity Zones. And

so in that way, we will understand the direct jobs that are created, and the economic impact on the communities that have been designated. And you all will have the tools to make any adjustments to Opportunity Zones that are necessary to make sure that the existing residents of Opportunity Zones benefit.

Senator SCOTT. Well, thank you very much, Mr. Hawkins, for that last comment. Because it is really important for us to be able to measure the success of the zones. And one of the ways that we do that is by having the reporting requirements that require all funds to report on their activity. And that kind of information will help us understand if we are actually helping the community, or if we are only helping investors. Because my goal is to help the community first and, by default, let investors benefit from doing good and making a decent—not a great, but a decent ROI.

Finally, Mr. Hawkins, as you know and I know, but others may not know, you served as my tax counsel during the tax reform. And I am thankful that you helped us write that tax bill and, frankly, I am happy to report that doubling the Child Tax Credit, working on lowering the small business burden by 20 percent, lowering the corporate tax from 35 to 21 percent, all those features have had a tremendous impact on lowering unemployment, closing the income gap, closing the wealth gap. And frankly, I saw a report that the lowest level of poverty in the country's history since they started tabulating in the 1950s was 2019 or so, or pre-pandemic.

Mr. HAWKINS. Sure. Oh yes; absolutely. And if you look at the different aspects—one of the things I always joked about when I was working for you was actually I loved having a boss who actually in his past career had signed the front of a check, not just the back. And so I thought so much about how the 20-percent reduction in the pass-through rate would have benefited you when you were at Allstate, and that those businesses that you passed on to other minority entrepreneurs will benefit from that pass-through deduction. So there is so much that was done in that bill that benefits minority entrepreneurs and that makes our tax code more fair. I am very proud of the work I was able to help you with.

Senator SCOTT. Well, thank you, Mr. Hawkins.

And, Mr. Chairman, thank you for your timeliness of having Senator Carper go right before me so that we could continue the conversation on Opportunity Zones. That is pretty good leadership.

Thank you, Mr. Hawkins.

The CHAIRMAN. I was not able to go foreordain it, but I am glad that our members are getting recognized. The next two will be Senator Toomey and Senator Cardin.

Senator TOOMEY. Thank you, Mr. Chairman. Thanks for having this hearing. I hope that there is a universal acknowledgment that there has never been—and certainly in the tax reform we did—any pernicious racial intent in the sense of trying to benefit a given group at the expense of another. Such a suggestion would be untrue and, frankly, offensive.

The idea behind the tax reform, which is the dominant discussion about the tax code as it is today, one of the central ideas—there were several—but one of the central ideas was to lower the after-tax costs of deploying capital, with the notion that if we did that, we would get an increase in the deployment of capital that would

help improve productivity because, really, capital is the tool that is necessary for workers to become more productive. And that would enhance the economy overall, but especially for middle- and lower-income workers who would benefit from that.

And that of course is exactly what happened. I think it is very, very important to underscore that it was almost immediately after we passed the tax reform that we had the best economy of my lifetime. Now you might think that is just a big coincidence. I do not think so. I think it worked exactly as we had hoped. The capital investment did in fact create a boom. Workers became more productive.

And, Mr. Hawkins, I do not know how closely you have looked at this data, but if you have, could you comment on the acceleration of wages which reached an extraordinary level just before the pandemic hit in 2019, and the wage gains that were strongest for the lowest-income workers?

In fact, isn't it true that since wages were growing fastest for low-income workers, we were narrowing the income gap? We were narrowing the racial disparities in incomes by virtue of the powerful economic growth we had?

Mr. HAWKINS. Absolutely. And so we saw wage growth—I mean, that wage growth is a direct result of a tightening labor market. When you have record employment rates for Asians, for Hispanics, for African Americans, for women, when you have these record employment rates, it tightens the labor market and employers have no choice but to pay more to draw people to their firms.

Senator TOOMEY. Right, right.

Mr. HAWKINS. And we were pleased to see that a disproportionate amount of the benefit of those wage gains came at the lower end of the income spectrum.

Senator TOOMEY. Right. So I would just suggest—and I wish this were not controversial—but I would suggest we try to get back to the best economy of my lifetime. I would suggest we get back to record low unemployment. I would suggest we try to get back to narrowing the income gap. Those are really good things, and we were there just a little over 1 year ago.

But if we unwind the pro-growth features in our tax reform, we are not going to get back to those days. And instead—actually one of the central ideas that some of our Democratic colleagues have, is to do something that is the exact opposite of helping low-income workers, by eliminating or dramatically lifting the SALT cap, the deduction for State and local taxes, of $10,000. That is already a lot. You know, if you have $10,000 in State and local taxes, you probably have more than the median income in the United States. If you get rid of that cap entirely, the benefit flows overwhelmingly, massively, to the top 1 percent. It is a big subsidy from working Americans to the richest Americans.

Mr. Hawkins, do you see it differently? Or is that what lifting the cap on the SALT tax would do?

Mr. HAWKINS. It is exactly what it would do. And that is how I see it. That is how the Brookings Institution sees it. You know, they noted that if the cap was lifted, 96 percent of the benefit of the SALT cap repeal would go to the top quintile; 57 percent would go to the top 1 percent; and 25 percent would benefit the top .1 per-

cent. And those people in that category would get a tax benefit of nearly $145,000.

And so there is no intellectually honest argument to raise the SALT cap if your goal is to eliminate income inequality in the tax code.

Senator TOOMEY. No, it certainly makes it worse. And finally, let me just point out, it is not only in how it affects people, but it is the nature of the deduction. This is an arbitrary subsidy for people who choose to live in high-tax jurisdictions. That is what it is.

In those jurisdictions, you often get more services. If you choose to pay for those services, whether it is trash removal or whatever else it might be, you pay for it in the form of a property tax very often, where constituents in a place that does not have as high a tax may just have to contract separately.

When they contract separately for those services, they do not get to deduct that payment. But if you increase the SALT tax deduction, they can.

So I think I have been through most of my time, Mr. Chairman. Thank you.

The CHAIRMAN. Okay; Senator Cardin?

Senator CARDIN. Thank you, Mr. Chairman. And let me thank all of our witnesses. I particularly want to thank you for your leadership in regards to dealing with the inequities in our tax code.

There are two aspects to this. Professor Brown, I appreciated your analysis of the discriminatory nature of the tax code itself as it relates to many of the provisions. But it is compounded by the challenges we have had on discretionary domestic spending, where we have not been able to move forward on a lot of important issues, and we use the tax code as an effort to try to make up for those inequities.

I want to just share with you a meeting that I had with the Industrial Area Foundation—that is our BUILD organization locally—talking about affordable housing and economic development and the challenges we have today. And I pointed to the fact that, yes, I would like to see things on the discretionary spending side, but we also need to recognize that we have tools available under the tax code, and we need to make those tools even more effective.

We talked about the Opportunity Zones, but I want to mention the New Markets Tax Credits that I partnered with Senator Blount to make permanent. That was very helpful in Baltimore, not to mention many of the areas of revitalization, including Remington Way, that would not have been possible without the New Markets Tax Credits I just mentioned, the historic tax credits that have been very helpful, and we are trying to improve the historic tax credits.

I want to thank Senator Portman. We are working together on the Neighborhood Investment Act, a new effort to deal with the appraisal gaps in lower-income communities in efforts to renovate their homes and the housing stock in low-income communities. These are all areas of effort to try to improve the effectiveness of these tools.

The point that was brought up to me by the BUILD organization is that there is not one tool available that can make the renovation of a community feasible under the tax code. They have to put to-

gether so many of the different tools and private-sector development, et cetera.

So, Professor Brown, I would just like to give you an opportunity to talk about how we can improve the tax code in dealing with the housing crisis we have in America by fine-tuning the tools that are currently available, including the Low-Income Housing Tax Credit that Senator Cantwell has been so actively engaged with, in order to try to deal with inequities through the tools available.

Ms. BROWN. So I would say that with the subsidizing activity, whether it is home ownership, or whether it is affordable housing, we have to think about who we are going to help and who we are going to hurt, right?

So the problem with affordable housing transcends the code in this sense. There are so many requirements that are anti-affordable housing; there are developers who want a certain return on their investment and are reluctant to invest in those neighborhoods. And if you want to encourage that, I do not know if the best way is through the code or direct spending.

So you want to also talk about existing home ownership rates among low-income Americans. One of the biggest barriers to home ownership with respect to black Americans is the down payment. And there is nothing the code can do to provide a down payment. Direct spending could, but nothing in the code.

So there is often a mismatch between the goal that you want, which is to spur investment in distressed communities, and the chosen means, which is Opportunity Zones, which tend to benefit wealthy white developers as opposed to the members of the community.

Senator CARDIN. And I agree with you. But if you look at the trends over the last several decades, you see the amount of public support for affordable housing under the tax code increasing, whereas under direct spending, it has been reduced.

I certainly do not want to reduce the tools we have available under the tax code. I would like to increase the opportunities under direct spending. That is not always politically possible. So I think we have to look at what is reality.

One additional point, if I might, and that is the paid preparers. I mentioned that at our last hearing. The low-income families are the ones being victimized the most under changes in the tax code, especially the Earned Income Tax Credit, and we have, as you know, no regulatory power right now under IRS to regulate paid preparers.

I think it is in the interest of low-income communities, the consumer interests, that we give that power back to the IRS. I do not know, Professor, if you want to comment on that or not?

Ms. BROWN. Yes, I definitely think that is a start. But really the big problem is the complicated nature of the Earned Income Tax Credit. So the community of Earned Income Tax Credit recipients has a higher percentage who use paid tax return preparers than the rest of the population. That is because the EITC is just too complicated, and Congress could take some steps to simplify it.

Senator CARDIN. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. We are having some IT problems. Senator Grassley, are you out there?

[No response.]

The CHAIRMAN. All right, then we will go next to Senator Brown, and then Senator Cassidy.

Senator Brown?

[No response.]

The CHAIRMAN. Senator Cassidy?

Senator CASSIDY. Good. Thank you.

Professor Brown, a couple of things. I want to make sure the Democrats will speak—hopefully, my Democratic colleagues will speak to some of the Republican witnesses, but I want to speak to some of the Democratic.

My Democratic Senate colleagues have made repeal of the SALT tax provision kind of like one step over the line, but it sounds like you would disagree with your advocacy for this since, as Mr. Hawkins pointed out—by the way, great to see you, Mr. Hawkins; we used to sit next to each other. As Mr. Hawkins points out, the benefit of that accrues to the extremely wealthy principally, and those folks typically are not African Americans. So would you disagree with my Senate colleagues as regards the risk in repealing the SALT tax?

Ms. BROWN. Yes, and I would say to you—you have perhaps read my testimony closely. That is exactly what I would do. And here is the thing. Right now we have about——

Senator CASSIDY. I have just 5 minutes. I have to go on. I just wanted to get that for the record. Thank you.

Ms. Rao, I am just curious. I am not challenging, but your testimony suggests an inability of women and others to raise money, people of color. I notice that Ms. Pelosi, the Speaker of the House, we see that she has raised $815 million in political contributions in 2002. That is a lot of money.

Could you add a sense of why she can raise so much money, and yet your testimony is along the lines of, it is difficult for someone like you to raise money. It does not seem as if there has been a barrier, if you will, for her.

Any thoughts on that?

Ms. RAO. Sure. Thank you, Senator. I think one of the fundamental differences is that for people of color and women, they need to reach a certain level of notoriety, or a certain level in which they are seen as someone who is credible, before they can reach that access to capital, whereas, founders who are white do not have to reach that level of credibility before they are able to access.

So to your exact point, I think that it has been easy for some individuals, some women, to be able to raise capital. But for the vast majority of women, for myself as a woman of color who is raising a venture capital fund, who does not come from generational wealth, it has been extremely difficult.

Senator CASSIDY. I get that. If someone graduated now and she is 24 years old and she graduates, or 26 and she graduates from Harvard Law, or she has a Harvard MBA, or a Stanford MBA, do you feel as if that would be the ticket, the contact that she would need to have, et cetera, that would allow her to raise more successfully?

Ms. RAO. I think that there are certainly intersectionalities between race and education and socioeconomic status. As I pointed out in the testimony, that will allow and enable some women and some people of color to advance further, and maybe quicker. But my point in that is that maybe we need better representation of different types of diversity, and——

Senator CASSIDY. I get that. I get that. I accept that, believe me. But it does seem as if, if you subtracted out the role of gender and race and you inserted, say a Barak Obama graduating from an Ivy League school, that maybe you would have the range of contacts that others would have.

I have to move on. I apologize.

Professor, one more time—and by the way, Shay Hawkins, I loved your testimony. I am going to pin it on my bulletin board. So much so that that is why I am talking to the others.

Professor, one, I agree with you about the step-up basis. I once wondered why did the Kennedy family continue to have so much wealth, when I do not see any of them doing the same entrepreneurship that Joe Kennedy did way back when—loosely defining entrepreneurship. And then I realized that it is that stepped-up basis for the inheritance and their foundations.

So again, we have a point of agreement there as well. But let me ask you about something that Dr. Desai mentioned, alluded to—and I may not get this right, Dr. Desai, so I apologize. You focus on the privileges, if you will, of folks with more income in the tax code, but Dr. Desai—whether he said this or not, this is what I drew from it based on my own experience—pointed out that many other programs have an inverse effect.

I am a doctor. I worked in Louisiana's Charity Hospital System for the uninsured, the poor, and the majority of my patients, 80 percent, were African Americans. They were on Medicaid. More were on TANF, more in public schools supported by tax dollars as opposed to non-African American children who were having to pay for their own education in parochial or private schools.

In your analysis, do you look at the mirror image where there are a heck of a lot of benefits that accrue to those of color or those who are less well-off, disproportionately? Not because it is necessarily designed that way, but inherent in addressing the issues such as health care for the uninsured, you are going to capture more of those folks who are, again, less well-off no matter what their color, but disproportionately they are of color?

Ms. BROWN. I am not sure I am tracking the question. That was a long one.

Senator CASSIDY. If you look at it, African Americans are more likely to be on Medicaid, more likely to receive EITC, not in absolute numbers but as a percent of their total population.

And so that is a benefit which accrues to those who are of color, which is financed, if you will, by those who would not be of color.

Does your analysis look at that?

Ms. BROWN. So I would say, my response would be, when we think about white Americans who may pay less in taxes but are reliant on a court system, I do think there is a connection between taxes and services. But I think at the basis would be the information——

Senator CASSIDY. I have to stop you there, because that is off point. And I will finish with this, Mr. Chairman. If we are going to say that the benefits of the exemptions benefit those who make more money and they just happen to be white, then it is probably fair to say that the benefits of these social safety net programs accrue to those of color; frankly, not because they are of color, but because they meet the need otherwise. But the mirror image does seem to be something which your research appears to ignore. And whether Dr. Desai meant that when he alluded to it, I do not know, but that is how I took it.

Thank you, Mr. Chairman.

The CHAIRMAN. The time of my colleague has expired.

Senator Brown?

Senator BROWN. Thank you, Mr. Chairman. I really appreciate it.

Mr. Hawkins, it is good to see an Ohioan before this committee. I appreciate our work together on civil asset forfeiture when you were working in the Senate with my friend, Senator Tim Scott. So I thank you for that.

Professor Brown, my questions are mostly for you. Thank you for being here today and for calling attention to the intersection of racial equity and tax policy. You have done that I think better perhaps than anybody in the country. They are far more connected than most people think. I am glad we are having this hearing to examine that.

Not only do we need a tax code that would be far more equitable, we need an IRS that administers and enforces that tax code fairly. When the IRS Commissioner was before this committee and Chairman Wyden just a week ago—or actually when he was here the first time last summer—I asked if he could assure us that IRS audit rates do not disproportionately affect black and brown tax filers. He said, yes, he could assure us that audit rates do not have a disproportionate effect. But given that IRS does not collect race data, and that the Census Bureau does not generally share data with IRS, I question whether the IRS really knows the extent to which its enforcement activities have a racially disparate impact.

So my question is this, Ms. Brown. What are your thoughts on this? What would responsible IRS guard rails be to prevent disproportionate impacts? What would they look like to you?

Ms. BROWN. Well, they would look different than what we see, right? So we saw, or ProPublica published research that shows the significant percentages of black EITC claimants in the south that are being audited. So we would want to collect more data on EITC audits so that we could compare them to the tax-paying population to see if there were any differences.

It all goes back to data. That is really important, and not withstanding what I have heard, we do not have the data.

Senator BROWN. Do you have ways you can suggest to this committee that IRS adjust their practices?

Ms. BROWN. Do I have ways? Well, yes. It would be not overly auditing low-income taxpayers, and auditing high-income taxpayers. That would be one place to start.

Senator BROWN. Let me—thank you. I do not mean to interrupt, but let me—well I guess I do mean to interrupt, but I apologize. Let me delve into that. One of the most important parts of the

American Rescue Plan that Congress passed in March—and I remember after voting that day sitting next to my friend Senator Casey on the Senate floor, saying this was the best professional day of my life because of what we did with the Child Tax Credit, the Earned Income Tax Credit, and all the things that Senator Casey did with children.

But we expanded it, unlike the enormous giveaways included in the 2017 tax law, which overwhelmingly went to wealthy and white tax filers. EITC and the CTC went mostly to low-income whites and black and brown tax filers, Asian tax filers.

For example, the expansion of the CTC is estimated to help poverty, we know this, by more than 50 percent, reducing poverty by almost that much. The same holds true for EITC. In Ohio, 15,000 workers of color over 25 who cannot get any of the EITC under current law will benefit from this expansion.

So we have talked much about EITC. We also, as the chairman does, talk about CTC. So should Congress—my question, Ms. Brown, and I think I know the answer, but that is how we do things—should Congress make the Child Tax Credit, the EITC, permanent?

Ms. BROWN. Yes.

Senator BROWN. I figured you would say that. The last thing is, I want to ask the panel about the tax gap. Just a "yes" or "no" on this one.

We know of $400 billion that is legally owed to the IRS each year but not collected. This tax avoidance robs our Nation of much-needed revenue. It undermines trust in government.

Who benefits the most from inadequate enforcement of our tax law? Who stands to lose the most from the revenue we lose? Just real quickly, we just have 1 minute left. Give me a very concise answer, starting again with you, Ms. Brown, if you would.

Ms. BROWN. So I would say the wealthy white taxpayers who are currently not being audited stand to gain the most from the dysfunctional system that we have now that targets disproportionately blacks' EITC.

Senator BROWN. Dr. Desai?

Dr. DESAI. I think more enforcement resources for the IRS is a terrific agenda. I do not think it is entirely clear where that gap is, and who would end up funding it. But I think greater enforcement dollars is a wonderful agenda.

Senator BROWN. Mr. Hawkins?

Mr. HAWKINS. Greater enforcement dollars is absolutely a wonderful agenda. And it is something that would make sense and make our tax code more fair.

Senator BROWN. Ms. Rao?

Ms. RAO. This is not—I am not a tax expert, but certainly greater incentives for participation as an investor certainly would increase the representation that is seen in venture capital.

Senator BROWN. Thank you all for your conciseness.

Mr. Chairman, thank you.

The CHAIRMAN. Thank you, Senator Brown. Now in order of appearance, Senator Bennet, Senator Lankford, and Senator Casey. I do not see Senator Bennet, so that would mean our next two would be Senator Lankford and then Senator Casey.

Senator Lankford?

Senator LANKFORD. Mr. Chairman, thank you. To all of our witnesses, thank you very much for your work on your testimony and for bringing all these different ideas to our conversation today.

Mr. Hawkins, I want to ask you about Opportunity Zones as well. You spoke about and wrote about democratizing Opportunity Zones investment. Can you go a little deeper into that for me?

Mr. HAWKINS. Sure. And so Opportunity Zones basically have three levels of possible benefit. You know, once you have a capital gain and you reinvest that capital gain in an Opportunity Zone, first you get a 10-year, up to a 10-year deferral of that capital gains tax liability.

Second, if you invest for longer periods of time, 5 or 7 years, then you get what is called a step-up basis, or a little bit off that tax bill. You are still going to owe, but you get a little bit off that tax bill.

And the last benefit refers to the investment in the zone. So, if I invest in, let's say a Shay Hawkins version of Facebook, or something like that, what it says is, if I hold that investment for more than 10 years, then I get a 100-percent step-up basis, or no capital gains tax liability when I sell that company in 15 or 20 years.

So what we can do is, for the purposes of that 100-percent step-up in basis, for holding that company for 10, 11, 15, 20 years, we can allow non-capital gains to be invested for that purpose and get the benefit of that 100-percent step-up in basis.

And so what it would do—you know, if there are 10,000 people in a community who want to come together and give $100 to make a $1-million investment, to pool their money, people would not have capital gains normally and then participate in the Opportunity Zone and benefit in one additional way, not just with increased property values, not just with increased access to goods and services, not just with increased jobs that come with the Opportunity Zone, but also they could participate in the investment.

Senator LANKFORD. Okay; that is helpful as well.

I have worked extensively on trying to be able to get access to retirement money for an emergency fund without a tax penalty in the process. It is something I have worked on for quite a bit, and I continue to work on a good proposal.

I want to incentivize more people to be able to save for retirement, but I also want to reduce the penalty that people pay if they have to pull that out. If your refrigerator goes out, or your car has damage, or whatever it may be, very few people have an emergency fund. And so they never save for retirement because they think they cannot get access to it in case of an emergency.

But to be able to get some access to that—there has been some debate on how big that is, because you want to incentivize people to save for retirement. It cannot be just an emergency fund that you are pulling from, because you are trying to incentivize retirement savings, as well as being able to help people. But you have to also get access to those dollars so that people do not pay a 10-percent tax penalty if they have to get to it.

The question I want to ask you is, what would you suggest as the dollar amount that would need to be there that people could get access to for an emergency fund and still incentivize the saving

for retirement? How big should that dollar amount be that they are allowed to get for their emergency fund out of their 401(k)?

Mr. HAWKINS. You know, it is going to vary for different families, but, I think it would need to be set—certainly you are looking at thousands of dollars. I would imagine that in the $3,000 to $5,000 range would be a threshold that would make sense for most families. Because I mean, if you are looking at, it could be a basement flooding or any other type of emergency you can think of, when you look at how low the savings rates are for the people in the lower 50 percent of the American income scale, when you look at how low those rates are, with an average retirement savings in that group of zero, they are going to be reluctant, as you said, to set that money aside and say, no, they cannot get their hands on it in the case of a temporary emergency.

Senator LANKFORD. Does anyone else have an opinion about what that dollar amount should be, both to incentivize retirement and then to also allow people to get access to some of that money for an emergency? Does anyone have a dollar amount that you would prefer?

[Pause.]

Senator LANKFORD. I am going to take that as a "no" then from the panel. Panel, thank you very much for contributing on this.

Mr. Chairman, I will give you 18 seconds back.

The CHAIRMAN. Thank you for your thoughtfulness, Senator Lankford.

Senator Casey?

Senator CASEY. Thank you, Mr. Chairman, and thanks for this hearing.

I am going to direct my questions to Professor Brown. I hope she does not mind that I will have all my questions for her. But we are grateful for her scholarship and grateful for the new book that she has in the works that is being done on the issues we are talking about today.

I wanted to start with, maybe, at least two questions about data, and then also a question about child care.

Professor Brown, your significant research regarding identifying these racial disparities in the tax code is critically important. Can you discuss the types of data you wish the IRS collected that would help with this research and how you worked around the limitations of not having it collected?

Ms. BROWN. Yes. I would like to see the specifics of income data talked about by race: what percentage of taxpayers have this exclusion; what percentage of taxpayers benefit from that deduction. So I would basically like all the 1040 information for individuals to give race, as it were, to tell us what percentage take advantage of which tax breaks.

And what I had to do was look at other data sets. So there was a question earlier that talked about what percentage of Medicaid recipients were black. Well, why do we know that? Because some government agency publishes it. The IRS needs to publish tax data as well. So I worked around it by looking at different disciplines, and getting proxies. The Census Bureau has proxies for tax return data.

Senator CASEY. And like anything else—I do not know who said this—but the old expression is, what gets measured gets managed.

Ms. BROWN. Right.

Senator CASEY. We have gone too long, obviously, without data. And any changes with respect to tax data will of course take some time. I just wanted to ask you this question about data.

In your view, is it possible for Treasury and IRS to undertake gender and racial impact analysis by adding or inputting statistical data?

Ms. BROWN. So first of all, the IRS has published gender and age studies already. They have done the work with respect to gender. I certainly think there is the capacity—not capacity in terms of people who can do it, but the agency should be able, Treasury, IRS, should be able to get this done.

Senator CASEY. And do you think that that could be included, that statistical data could be included with a reasonable degree of certainty as a part of the policy analysis?

Ms. BROWN. I do. I absolutely do.

Senator CASEY. I want to ask you as well about child care. We know how critical it is, not only in the midst of a pandemic, but child care is essential to our national economic infrastructure. It is especially critical now for working families.

We have made tremendous progress in ensuring that all families that are eligible can benefit from the Child and Dependent Care Tax Credit through the Rescue Plan. As Senator Brown mentioned, the great advancement in expanding the Child Tax Credit that he worked so hard on with the chairman and others, but also the great expansion of the Child and Dependent Care Tax Credit, is something so many of us have been pushing for years.

This credit is now fully refundable. Parents can get up to half of the cost of child care. According to the National Academies of Science, these improvements, making the tax credits fully refundable, both the Child Credit as well as the Child and Dependent Care Credit, can reduce child poverty tremendously, by half or more, if you include both of them. And that increases earnings and employment. And I think especially, and just proportionately, this will help African American families.

In your view, what are some of the most important investments that we can make through harnessing the tax code to support economic security?

Ms. BROWN. So, when I think about—well, first I would say, tax income from capital at the same rate as income from wages. So there is no reason to prefer capital to labor. The tax breaks—or put a different way, why should workers not have the choice to pay the low preferential rate because they earn income as opposed to having their money work for them? So that is one of my big-picture suggestions.

Senator CASEY. Thanks very much, Professor, I appreciate it.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague.

Next will be Senator Daines.

Senator DAINES. Thank you, Mr. Chairman. And I would like to join my colleagues in highlighting some of the changes we made in the tax code in 2017 that helped address inequality and disparities.

In fact, we lowered rates across the board, doubled the standard deduction, doubled the Child Tax Credit, capped the SALT deduction, capped the mortgage interest deduction, and much more. And we know these policies worked because we saw those results in that pre-pandemic economy.

In fact, if you look past 2017 at just before we hit the pandemic, we saw record-low unemployment rates for African American workers, Hispanic workers. Labor force participation was growing. Poverty rates hit an all-time low. Incomes were going up for all workers, but they were growing faster for workers at the bottom of the income scale. And to return to that robust economy, we do not need to increase taxes across the board. We need to build on some of the gains that we made with the Tax Cuts and Jobs Act.

Turning to my questions, I have always been concerned with how the tax code looks for Main Street businesses. And that is why that 20-percent deduction we had for pass-throughs, like sole proprietorships, partnerships, LLCs, was such a critical part of tax reform.

And that is why I introduced the Main Street Tax Certainty Act with Senators Cassidy, Scott, and Portman, to make that section 199A, that 20-percent tax deduction for the pass-through businesses, permanent. Identical legislation was introduced in the House on a bipartisan basis.

My question for Mr. Hawkins: you mentioned in your testimony that minority-owned businesses are more likely to be organized as a pass-through entity versus a C corp. Is it safe to say that making the 199A 20-percent tax deduction permanent will help minority entrepreneurs and help grow our economy?

Mr. HAWKINS. Absolutely, Senator. When you look at the structure of most minority small businesses, they are going to be sole proprietorships, typically partnerships or LLCs. And so the legislation that you introduced to make that 20-percent deduction permanent will have a strong targeted effect on benefiting minority small business owners.

One good example—one good example that I am very proud of in my home town of Cleveland, OH, there is a minority- and veteran-owned small business, Bridgeport Group. They take advantage of that 20-percent deduction. And they are also using Opportunity Zones to expand their supply chain logistics business to serve Cleveland's world-class health-care market.

And so, I come in contact with minority business owners who have a direct benefit from that, from that deduction, and I am excited to see the bipartisan support that we saw with the introduction on the House side, and——

Senator DAINES. Mr. Hawkins, let me follow that up. The Cleveland example is a great example. So is it safe to say then that it would help minority entrepreneurs if we made the deduction permanent? Would it also hurt them if it were to be scaled back or eliminated, as the Biden administration and certain members on the other side of the aisle have proposed?

Mr. HAWKINS. Absolutely. You know, like I said, the president of the Bridgeport Group, Andre Bryan, is an example of someone who will be harmed if we roll it back.

Senator DAINES. Thank you.

Professor Brown, some of my colleagues on the other side of the aisle think that Congress should eliminate the $10,000 cap on the State and local tax deduction that was put in place by the Tax Cuts and Jobs Act.

Given that 96 percent of the benefits from eliminating the SALT cap would go to the top quintile, with 57 percent going to the top 1 percent, do you agree that eliminating the cap on this deduction would be bad policy?

Ms. BROWN. I believe all itemized deductions should go, including the State and local tax. So I believe the mortgage interest deduction should go, the State and local taxes should go.

Senator DAINES. So you would support eliminating that provision made there on SALT that would actually go—57 percent going to the top 1 percent?

Ms. BROWN. No, no. I do not want any taxpayer to be allowed to itemize deductions, given that only 10 percent of Americans do it. So I think you and I are saying the same thing——

Senator DAINES. Okay; you want to eliminate all deductions. You want to keep the SALT cap. Okay; got it.

On marginal tax rates, there is a long history of bipartisan—I see I am out of time here, so I am going to—out of respect for the chairman managing the hearing here, I will end there.

So thanks, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Daines.

Senator Grassley is next, followed by Senator Cantwell.

Senator GRASSLEY. Thank you, Mr. Chairman, and I have a question, to start out with, for Professor Brown.

I appreciate your candor that you had with Senator Cassidy on your opposition to eliminating the $10,000 SALT deduction cap. It is clear that repealing that cap would overwhelmingly benefit the wealthy. In fact, according to the nonpartisan Joint Committee on Taxation, over half of the benefit from repeal would go to taxpayers with income exceeding $1 million.

So the question is kind of like this: would you have similar concerns that you expressed to Senator Cassidy about SALT, about tax subsidies for high-end car ownership? I will give you an example: the $7,500 Federal tax credit for the purchase of expensive electric vehicles, given that such a subsidy would benefit the wealthy, because Americans often drive such cars as a status symbol.

Ms. BROWN. So I have not studied it, but my gut says I would not support that.

Senator GRASSLEY. Well, thank you for that.

For Mr. Hawkins: the Tax Cuts and Jobs Act provided significant tax benefits to low- to moderate-income families. It also focused on pro-growth policies, leading to an increase in investment and higher productivity, rising wages. There is ample evidence that prior to the pandemic it was working: the best economy in 50 years. In fact, wage growth was strongest for low-income, low-wage workers.

As a result, the Federal Reserve survey of consumer finance income inequality declined between 2016 and 2019. Lower-income Americans also saw similar gains in wealth as they did in income. Moreover, black and Hispanic families experienced some of the largest wealth gains. Median net worth rose 33 percent for black

families, 65 percent for Hispanic families, compared with a 3-percent gain for white families.

Mr. Hawkins, do you agree that pro-growth tax policies are essential if our goal is to improve the well-being of low-income Americans and reduce economic disparity?

Mr. HAWKINS. Absolutely, Senator Grassley. When you are looking at what happened from the Tax Cuts and Jobs Act, what you saw was a bill that ignited the economy. And as that economy heated up, the labor market tightened. And as the labor market tightened, you saw rising wages on the lower end of the income scale.

And again, as you mentioned, there was record employment again for the black community, record employment for the Hispanic, Asian community, record employment for women. And so that is really the key: to ignite the economy, tighten the labor market, and get wages rising.

Senator GRASSLEY. I do not know whether I am running out of time, but this is my last question. This is for Professor Desai.

The tax code includes several tax benefits targeted at low-income households. This includes refundable credits such as the Earned Income Tax Credit and the Child Tax Credit. But according to the Congressional Budget Office, low- and moderate-income workers can experience exceedingly high marginal effective tax rates as the benefits phase out, regardless of their positive purpose.

These marginal effective rates can exceed the top statutory tax rate of 37 percent, and in some cases exceed 100 percent. So to you, Professor, how would you expect these high marginal tax rates to effect low-income individuals who may be considering working more hours, or increasing their earning potential through education?

Dr. DESAI. Yes, exactly, Senator Grassley. You are right that the phase-outs associated with some of those credits do become manifest in higher marginal tax rates as individuals move up the income spectrum. And that is a problem.

Having said that, it is also the case they are a natural part of any phase-out. And in fact, any effort to use credits in the ways that I think they should be used will feature this. So to ameliorate it, one would want to think a little bit about using maybe demigrants a little bit more, and also making the phase-out a little less, both of which could remedy the problems associated with higher marginal tax rates.

Senator GRASSLEY. Thank you, Mr. Chairman. Thank you, Professor.

The CHAIRMAN. Thank you, Senator Grassley.

Senator Cantwell is next.

Senator CANTWELL. Thank you, Mr. Chairman. Thanks for holding this important hearing, and thanks to all the witnesses.

I want to look at the question a little differently on the issue of just access to capital. Last year, startups raised 13 percent more from venture capitalists than they did the previous year, so that total was $150 billion. And yet we know that the share of money going to women and minority businesses is just a pittance.

We know that 2.2 percent of all venture capital raised in 2020 went to women-funded companies, and just 1 percent—1 percent—went to investment in tech startups going to black entrepreneurs.

So we know this is a problem, and we know we need to do something about it. In Washington, we see this disparity, with just 35 percent of all small businesses owned by women and just 3 percent black-owned, according to our recent analysis in our area.

But the question becomes a priority of—I know the Black Founders Matter Fund is trying to take this issue head-on. This is an organization that is trying to support entrepreneurship out of black-owned businesses.

So what I think—Ms. Rao, what do we need to do for venture capital to play a bigger role in building wealth in these communities, and diversity? And what has been your experience in trying to raise venture capital funds?

Ms. RAO. Thank you so much, Senator.

So first off, I really want to reiterate what you just said, which is that there is an extreme disparity when it comes to founders being able to raise capital. I think that we can all point to outliers of people who are well-known and nationally recognized, like Nancy Pelosi and Barak Obama, or even Beyonce, who could start a company and raise money within minutes, but that is not the experience that average people of color or women receive when they are going about starting out.

A perfect example of that actually is Jewel Burks, who had an amazing acquisition by Amazon. We interviewed her, and she said that in her first raise she went for over a year trying to raise that capital. And it was a successful acquisition in the end, but as you can see, there are different barriers that women of color, women founders in general have to face when they are doing pitches in front of investors. And that is because there is a lack of representation, and there is absolutely a homogeneous groupthink process.

So in order for venture capital to be able to actively participate in creating a more equitable society, there are a couple of things that need to happen. One is a reeducation of investors in understanding how to evaluate different subsets of founders. I think that that educational piece is critical to being able to promote equity.

The second piece is inclusion of tax incentives as well as other programs and scholarships to be able to allow different types of people to be at the decision-making table. Because we all have our own implicit biases, and we can course-correct that with education, as well as understanding how to invest in different types of companies. The traditional venture capitalist is investing in B2B SaaS, but how do we invest in other types of businesses that may be minority- and women-owned businesses?

And so how can we adequately be able to invest in the different types of businesses is one. But, two, having different types of people who represent different lived experiences at the decision-making table is fundamentally one of the best ways to be able to create equity in this space. That is something that Professor Brown mentioned. We do not have the same level of access to education and resources, and even when we do, we do not have the same level of decision-making power and are impacted in different ways.

Senator CANTWELL. Well, I see my time is almost expired, so I would love it if you could send me some recommendations as it relates to tax policy incentives that you think would help in this particular area.

But, Mr. Chairman, this is such an important time period for this discussion, because we know, even from the SBA, that people were getting left out—businesses were not getting the same access to capital from our traditional sources. So these private-sector sources also are problems. So I hope we can look at incentives.

Thank you very much.

The CHAIRMAN. A very important point, Senator Cantwell.

Next in order would be Senator Thune and Senator Whitehouse.

Senator THUNE. Thank you, Mr. Chairman, and thank you for having this hearing. And I want to thank all our panelists for being here today.

If I might just start by pointing out that some of the progress that we have made since passage of the 2017 tax law, I think illustrates that if you provide incentives, the right incentives, people invest and you get growth in the economy. You get better-paying jobs and higher wages, which is exactly what has happened.

And you know, a number of the changes that we made in the tax code in the 2017 act were very progressive. We lowered tax rates, expanded tax brackets, doubled the standard deduction, expanded the Child Tax Credit. And if you look at the results of what has happened since, we have had the lowest overall unemployment rate in more than 50 years. This is pre-pandemic, February 2020: 3½ percent, record low unemployment rates for blacks, for African American workers, and for Hispanic workers, and robust job growth.

And in fact, if you look at where a lot of the income growth has occurred, it has benefited lower-income workers the most. In fact, some pretty remarkable statistics. The income growth in 2019 was the most broad-based ever recorded in a single year. And the poverty rate fell the most in half a century.

So, in terms of what we are doing, I do not think we ought to be radically changing. In fact, I think that what we were doing was working pretty well. And that is why I think, as we talk about these issues at a hearing like this, trying to figure out how we address income inequality, I think we need to remember that the best way to do that is to get growth in the economy.

When the economy is expanding and growing, it is creating those better-paying jobs and raising wages for American workers.

So let me just, if I might, ask Mr. Hawkins and Professor Desai, can you discuss how the economic growth from the Tax Cuts and Jobs Act expanded opportunities for America's lowest-income workers? And to best protect these gains, are there particular tax proposals that you think would be counterproductive to low-income workers?

Mr. HAWKINS. So, Senator, I see the gains from the Tax Cuts and Jobs Act for lower-income workers coming in three forms. Number one is in higher employment among folks on those levels. And so, second you are going to see higher wages amongst folks on the lowest levels. And third, you are going to see lower poverty amongst folks on the lowest income levels. And so, those three things coming together, really spoke to a lot of what you guys set out to accomplish with the Tax Cuts and Jobs Act.

And so, in terms of counterproductive measures, obviously raising the corporate rate will be counterproductive because corpora-

tions do not pay the taxes. They just pass those taxes on to workers in the form of fewer job opportunities, on to shareholders, and then finally on to consumers.

To raise the corporate rate will be counterproductive. Eliminating the 20-percent deduction for pass-through entities again will be particularly damaging to minority business owners, small business owners, because a disproportionate amount of their businesses are going to be pass-throughs—as opposed to corporations—sole proprietorships, LLCs, and partnerships.

Dr. DESAI. I would just add a couple of things to that commentary by Mr. Hawkins. First, I think if one is interested in the bottom quintiles of the population, the most direct ways to assist them include expanding the Earned Income Tax Credit, the Child Tax Credit—some of the ideas that I have bounced around in my written testimony.

I think, to reiterate what Mr. Hawkins said, I think it would be useful to be careful about heavily raising taxes on corporations, and in particular on their global activities. I think the notion that somehow there are a lot of revenues to be gained, easy money to be gained by changing corporate rates, I think is not well-founded and, moreover, it will not redown to the benefit of American workers because we know that when corporations, the American corporations succeed around the world, they succeed at home.

So I think we need to kind of get away from the idea that somehow corporations are the ones who are not necessarily carrying their fair share. I think that whole way of thinking about the world, as Mr. Hawkins alluded to, does not actually reflect the fact that more than half the corporate tax is borne by workers rather than capital.

Senator THUNE. Thank you.

The CHAIRMAN. Thank you, Senator Thune. We have had Senators going back and forth. At this time, let's let Senator Whitehouse go and then Senator Bennet. Is that acceptable to you, Senator Bennet?

Senator BENNET. Sure; thanks, Mr. Chairman.

The CHAIRMAN. Okay. Senator Whitehouse then Senator Bennet. Senator Whitehouse?

Senator WHITEHOUSE. Thanks, Mr. Chairman. I appreciate this hearing, and I just wanted to flag the problems of tax spending. A couple of things about it.

First, it is big. The IRS collects about $3.5 trillion in income and payroll taxes each year. And the Joint Committee on Taxation, using CRS numbers—actually, sorry, vice versa—CRS using JCT numbers estimates the tax expenditures for 2021 would cost $1.53 trillion. So there is a lot of money going out the back door of the tax code. It is big.

It is also lasting. If you come in and get an appropriation, once the appropriation is spent down, you are all done. You have to come back and get another. But if you can bake something into the tax code, it is there for you and for your interests forever.

So it is big, and it is lasting, and it also, I believe, tends to be regressive. As Professor Brown has pointed out, tax expenditures tend to disproportionately benefit the very wealthy, allowing those who have access to high-priced tax attorneys to choose if and when

they pay taxes. And of course you have to be making a lot of money to make it worth your while to spend money on tax savings.

In that regard, Ms. Brown, I wonder if you could offer a brief comment on the extent to which Opportunity Zones run counter to that tax spending problem of being big, lasting, and regressive, or whether they masqueraded yet another tax giveaway to wealthy investors.

Ms. BROWN. So I think Opportunity Zones do make a giveaway to wealthy white investors, under the guise of helping distressed communities. And I think you can find an anecdote or two where you can say, "It worked here," but there are other anecdotes that show wealthy investors have influenced which areas were even named as Opportunity Zones, and they were not necessarily distressed communities, the way the statute perhaps should have been written if they were actually interested in holding people's feet to the fire.

So I think there is a lot of leeway in Opportunity Zones that make them not as helpful in distressed communities.

Senator WHITEHOUSE. Thank you.

So again, back to tax spending; it is big, it is lasting, it is regressive. Opportunity Zones probably did not help. And some of it is foreign.

Ms. Rao, you support small businesses. The Ugland House is a small five-story building in the Cayman Islands that is home to well over 18,000 corporate, quote, "headquarters," and nearly half of them were determined by the GAO to have U.S. billing addresses.

So when you are talking about small businesses, and you have 9,000 of them in one little building, that is not exactly, Ms. Rao, what you have in mind when you are thinking of helping small businesses get started, is it?

Ms. RAO. No. Thank you so much, Senator. So, while I know that that exists, actually the founders that I work with in early stage, especially primarily BIPOC founders, are not necessarily those who have access to capital. And certainly as you pointed out, it takes a lot of money to pay those high-priced lawyers.

Actually, the capital that is used in these rising founders is used in the talent acquisition race. So a lot of issues that Founders have in their development of their venture is this idea that they cannot access great talent. And so they are utilizing the capital that they receive to be able to work on their business and to actually scale and grow and be able to create that differentiation mode.

Senator WHITEHOUSE. So the last question: what income demographic do you think it is that is taking advantage of Ugland House and other offshore refuges to avoid paying taxes?

Ms. RAO. I would surmise that it would likely be those, as Professor Brown suggests, that are already benefiting from the tax process that they are in.

Senator WHITEHOUSE. Stands to reason. I yield back my time. Thank you, very much.

The CHAIRMAN. Thank you, Senator Whitehouse.

Senator Bennet?

Senator BENNET. Thank you, Mr. Chairman. Can you hear me?

The CHAIRMAN. Yes, perfectly.

Senator BENNET. Great. Thank you to the witnesses. I am very, very grateful that all of you are here today on this important topic.

The United States has one of the lowest rates of economic mobility and highest rates of childhood poverty in the industrialized world. And childhood poverty is disproportionately experienced by children of color. In 2019, black and Hispanic children were about three times as likely to be living in poverty as white children.

Professor Brown, as Superintendent of Denver Public Schools, I witnessed firsthand the effects growing up poor can have on a child's development and opportunity for success later in life.

For those reasons, I wrote the America's Family Act, along with my colleague Senator Sherrod Brown, and have been pushing to expand the Child Tax Credit to make it fully refundable for many years. And I am very pleased that we just passed this expansion of this part of the American Rescue Plan that will cut childhood poverty in this country by almost half this year. Ninety percent of children will benefit from the expanded CTC, but it will have disproportionately large effects on children of color, reducing poverty for black children by more than 50 percent, for Hispanic children by nearly the same, and for Native American children by more than 60 percent.

Professor Brown, I would like to hear your thoughts on the importance of the expanded Child Tax Credit and how this part of the American Rescue Plan will make our tax code more equitable for families of color.

Ms. BROWN. That was a sea change. Being able to have low-income families get fully funded Child Tax Credits was a significant advancement in the legislature. And I can just—because I have written about this—I can just think about the decades where that was not true.

So when we talk about statistics about single families in poverty, part of why that existed was because before now, Congress had not allowed Earned Income Tax Credit families to be fully seeing the benefit of a Child Tax Credit for each of their children.

Senator BENNET. And I assume that you think it would be helpful if we could find a way to make this permanent?

Ms. BROWN. You are correct. Yes.

Senator BENNET. Thank you; I appreciate that.

And, Dr. Desai, the American Rescue Plan also temporarily tripled the Earned Income Tax Credit, which you have been talking about today, for low-paid workers without dependent children in their home. This change will boost incomes for an estimated 17 million workers, workers who disproportionately come from communities of color and are in the early years of their careers.

How will the EITC expansion promote racial equity and financial opportunity for young workers? And do you believe that making this 1-year EITC expansion permanent would help our tax code better promote racial equity for workers?

Dr. DESAI. Thanks, Senator Bennet. Yes, I think the expansion of the EITC was a wonderful move. I think we could do more. I think we could make it bigger. I think we could expand it to the childless. And I think we could make it permanent. And I think that is the way forward on this general agenda.

I think in particular, as I lay out in my testimony, thinking about the exclusion of capital gains on primary residences or retirement buildup, I do not think is as effective as being laser-focused. And I think this is precisely why this hearing is so important, because it might reorient our attention towards these kinds of questions like the Child Tax Credit. Those are where we have the potential for the greatest gains for the bottom quintile.

Senator BENNET. I really appreciate that testimony. Mr. Chairman, I have no idea whether I am out of time or not.

The CHAIRMAN. My colleague has a minute left.

Senator BENNET. Okay; I have one last question. Data from the Small Business Association indicates that people of color are significantly less likely to own a business than white individuals in the U.S. Among those who do, more than 90 percent of all black- and Hispanic-owned businesses are owner-only firms. And owner-only firms tend to have significantly smaller profits than larger firms with multiple employees on the payroll.

Do you think the tax code should provide a level playing field for small minority-owned businesses which already face greater challenges in securing capital than white-owned businesses? According to the Joint Committee on Taxation, the design of the pass-through deduction in the 2017 Tax Cuts and Jobs Act means the smallest businesses will receive the smallest benefit.

Professor Brown, do you believe the pass-through deduction in the 2017 tax law was well-designed to help small minority-owned businesses succeed compared to their larger, often white-owned competitors?

Ms. BROWN. No, I do not.

Senator BENNET. Thank you, Mr. Chairman. I yield back.

The CHAIRMAN. I thank my colleague.

Senator Warren?

Senator WARREN. Thank you, Mr. Chairman.

So, nearly every component of tax law has a racial equity impact, but it is not just about what tax laws are on the books. It is also about how they're enforced.

So last week, the IRS Commissioner told this committee that the tax gap—the amount of taxes owed but not paid—could exceed a trillion dollars every year. The top 1 percent of Americans account for more than a third, and potentially as much as 70 percent, of the taxes owed but not paid.

But the IRS's efforts to enforce our tax laws, including these audits conducted to check whether or not a taxpayer is following the law, don't focus on these wealthy taxpayers. In 2019, low-income families claiming the Earned Income Tax Credit made up nearly 40 percent of all IRS audits.

So, Ms. Brown, we audit a lot of lower-income taxpayers, rather than focusing on the wealthiest people. What does that mean for the racial impact of our tax enforcement strategy?

Ms. BROWN. It means that it is being borne on the backs of black Americans and not where the true gap is, with higher-income white Americans who have access to tax attorneys who apparently the IRS would prefer not to push back against. So they go after low-income EITC claimants who do not have access to tax attorneys to push back. It is very unfair.

Senator WARREN. That is right. And, Professor Brown, am I right that you have looked at what the most-audited counties in America are?

Ms. BROWN. Well, ProPublica did research on that, and of course I am familiar with that, yes. And they are in rural black communities in the south. And in the south—there is a disproportionate number of black Americans living in the south.

So they have been black Americans in the south who filed the EITC who have been targeted, when research shows over 50 percent of EITC claimants are white.

Senator WARREN. Thank you. I appreciate it, Professor Brown. As your research shows, one reason why is implicit bias: politicians and bureaucrats embracing harmful stereotypes about black Americans that can lead them to single out EITC recipients.

But there is another piece here too. After years of Republican budget cuts, the IRS targets the people who are the cheapest to audit. And that is low-income taxpayers, many of them people of color. It is cheap and easy for the IRS to blast out letters to intimidate EITC recipients, but rich people use complicated tricks to evade taxes. So those investigations require time and money and expertise, things that the IRS is short on.

In fact, a recent report from the Treasury Inspector General found that the IRS is not even working on the cases of the highest-income taxpayers who do not file taxes at all, but who collectively owe more than $45 billion.

So, Professor Brown, if we gave the IRS a big pot of money and mandated that the IRS spend it on auditing the wealthiest taxpayers and the biggest corporations—targets where we know there is a huge amount of money going uncollected—could that help reduce the racial disparities in the tax system?

Ms. BROWN. Absolutely. Absolutely. It would make who pays taxes a lot fairer.

Senator WARREN. Good. So, thank you. You know, there is a lot we need to do to make our tax system less racist. And one easy place to start is by making sure that the IRS has the resources and clear direction to go after the biggest tax cheats.

I am really glad that Commissioner Rettig supports the bill that I am working on to provide a new targeted mandatory funding stream for the IRS so that the agency has a predictable, sustained, and protected pot of funds dedicated to ensuring that the wealthy and the big corporations are paying their fair share. It would give us a better, stronger, and more equitable tax system for all Americans. Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague. Are there any other Senators who would like to ask any questions?

[No response.]

The CHAIRMAN. Okay, hearing none, let me just check. Are we sure that there are no other Senators who have questions? Okay.

Let me close by saying that today's hearing is the first hearing of the Senate Finance Committee to look at racial, ethnic, and gender disparities under the tax code in decades, if not the first-ever hearing on this critically important issue.

And it seems to me some important ideas are reflective of witnesses of differing views coming together. For example, after this

massive cut in tax enforcement in the last decade, I have heard witness after witness saying you have to beef it up. And one of the reasons that I asked the IRS Commissioner last week about the tax gap is that I knew that it was far bigger than what was actually a matter of official records, and I knew that the central problem was that too many cheats were getting away with it without any consequences when they chose to ignore the law.

So I am going to close by touching on a point that Professor Brown made hours ago when she said that you have to be a detective to find data about these critical issues that we have been talking about. I believe it is long past time to make it easier to obtain the key tax data that will illuminate the injustices in our tax laws. I believe this could be done in a manner that protects the confidentiality and privacy of all taxpayers, and I am going to be asking Senators on this committee to work with me to implement this long-overdue and essential transparency reform.

With that, I want to thank all our witnesses again. Ms. Rao, you reflected very well on our State this morning.

And with that, the Senate Finance Committee is adjourned.

[Whereupon, at 12:03 p.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF DOROTHY A. BROWN, ASA GRIGGS CANDLER PROFESSOR OF LAW, SCHOOL OF LAW, EMORY UNIVERSITY

Chairman Wyden, Ranking Member Crapo, and members of the committee, thank you for inviting me to share these views on how our tax system perpetuates racial inequality.

In my testimony today, I will discuss three ways that tax policies are more likely to provide tax breaks for white Americans than black Americans. The first looks at the tax breaks for marriage. The second looks at tax breaks for sales of homes. The third looks at tax breaks for employer provided retirement accounts. But if there is one thing that I hope you remember from what I will be sharing with you today it is that racial inequality is baked into how our tax laws operate.

My book *The Whiteness of Wealth: How the Tax System Impoverishes Black Americans—And How We Can Fix It,*[1] reveals how when black Americans engage in the same activity like marriage, home ownership, or work, our Federal income tax policies advantage how white Americans engage in the activity while at the same time disadvantaging how black Americans engage in the activity. As a result, tax policy causes black Americans to pay higher taxes than their white peers. The book builds upon my prior research.[2]

What my research has revealed is that because systemic racism is very real, all American taxpayers bring our racial identities onto our tax returns. Understanding how this happens is made more complicated because the Internal Revenue Service does not publish statistics by race, even though it has by gender and age.[3] The Federal Government publishes a treasure trove of statistics by race—but not when it comes to our taxes. That single choice meant that my research might never have happened had I not become a detective of sorts looking for proxy data by race that might inform my tax analysis.

My research shows that history plays a part here as many of our current tax provisions date back to a time when separate but equal was the law of the land, specifically before *Brown v. Board of Education*[4] was decided and before the 1964 Civil Rights Act, the 1965 Voting Rights Act, and the 1968 Fair Housing Act became law. We should not be surprised then that our tax policies were created to benefit white Americans. Another part of how we got here can be explained by the reality that

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[1] Dorothy A. Brown, *The Whiteness of Wealth: How the Tax System Impoverishes Black Americans—And How We Can Fix It* (Crown Publishing Co. 2021).

[2] Dorothy A. Brown, "The Marriage Bonus/Penalty in Black and White," in *Taxing America,* edited by Karen B. Brown and Mary Louise Fellows (NYU Press 1996); "Race, Class and Gender Essentialism in Tax Literature: The Joint Return," 54 *Washington and Lee L. Rev.* 1469 (1997); "Pensions, Risk, and Race," 61 *Washington and Lee L. Rev.* 1501 (2004); "The Tax Treatment of Children: Separate But Unequal," 54 *Emory L. J.* 755 (2005); "Race and Class Matters in Tax Policy," 107 *Columbia Law Review* 790 (2007); "Pensions and Risk Aversion: The Influence of Race, Ethnicity, and Class on Investor Behavior," 11 *Lewis and Clark L. Rev.* 385 (2007); "Shades of the American Dream," 87 *Wash. U. L. Rev.* 329 (2009); "Teaching Civil Rights Through The Basic Tax Course," 54 *St. Louis University L. J.* 809 (2010); and "Home Ownership in Black and White: The Role of Tax Policy in Increasing Housing Inequity," 49 *Memphis L. Rev.* 205 (2018).

[3] Jeremy Bearer-Friend, "Should the IRS Know Your Race? The Challenge of Colorblind Tax Data," 73 *Tax Law Review* 1 (2019), *https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3231315.*

[4] 347 U.S. 483 (1954).

although legal Jim Crow has been overturned, we live in a society where race unfortunately still matters. Data from the 2019 Survey of Consumer Finances show that white families have eight times the wealth of black families.[5] In 21st-century America, systemic racism impacts virtually every societal function—including how much we pay in taxes.

Tax policies around marriage are more likely to benefit white married couples.

Our joint return operates in such a way that certain marriages get a tax cut called a marriage bonus, others pay higher taxes called a marriage penalty and a small percentage see no change in their taxes. Marriage bonus couples are those where one spouse earns roughly all of the income while the other is a stay-at-home spouse and works in the home. Marriage penalty couples are those like my parents—my mother was a nurse and my father was a plumber—and each worked full-time and contributed about 50 percent to household income. Census Bureau data I analyzed show that white married couples were more likely to get a marriage bonus, while black married couples were more likely to pay a marriage penalty. But there has always been a certain minority of white married couples whose marriages look like most black marriages and therefore pay higher taxes when they marry.

What we know of as the joint return did not exist at the beginning of our progressive tax system because taxpayers were taxed on their income as individuals. But in 1927, a rich, white couple Charlotte and Henry Seaborn along with their lawyers took matters into their own hands effectively creating a joint tax return for themselves. Henry shifted half of his income to Charlotte which lowered the overall taxes they paid. The Internal Revenue Service objected, but the Seaborns took their case to the Supreme Court which rewarded their self-help with a win.[6] That led eventually to Congress creating a joint return in 1948. But even in 1948 a higher percentage of black wives worked outside of the home than white wives which meant it was entirely predictable that the joint return would lead to lower taxes for more married white couples than married black couples.[7] It is referred to as equitable when we tax two households with $100,000 of income the same whether that is the result of two wage earners or one. Systemic racism in the labor market however means that it often takes two married black workers to equal one single wage earner. Those households should not pay the same amount in taxes in a progressive tax system.

While the Tax Cuts and Jobs Act temporarily eliminated marriage penalties for many,[8] the marriage bonus remains in our tax code today and continues to disadvantage married black couples. My solution: a return to individual filing like at the beginning of our modern progressive tax system.[9] Not only will it help dual wage earner couples, but it will also help America's singles as well.

Hidden within the marriage bonus/penalty discussion is the single's penalty. A single taxpayer that makes $100,000 of income will pay more taxes than a married single wage earner couple with $100,000 of income. According to the 2019 Census Bureau, 56 percent of white Americans are married, compared with almost 38 percent of black Americans. Most black Americans are single along with a significant percent of white Americans. Single Americans are a growing demographic in this country and a return to individual filing will also help them.

Tax subsidies for home ownership are more likely to benefit white homeowners.

The second area that I want to touch upon are tax subsidies for home ownership. The majority of white Americans are homeowners while the majority of black Americans are renters. According to the Census Bureau in the Fourth Quarter of 2020,

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[5] Neil Bhutta, Andrew C. Chang, Lisa J. Dettling, and Joanne W. Hsu with assistance from Julia Hewitt, "Disparities in Wealth by Race and Ethnicity in the 2019 Survey of Consumer Finances," Sept. 28, 2020, *https://www.federalreserve.gov/econres/notes/feds-notes/disparities-in-wealth-by-race-and-ethnicity-in-the- 2019-survey-of-consumer-finances-20200928.htm.*

[6] *Poe v. Seaborn,* 282 U.S. 101 (1930).

[7] Claudia Goldin, "Female Labor Participation: The Origin of Black and White Differences, 1870 and 1880," 37 *Journal of Economic History,* 87–108 (1977).

[8] Marriage penalties still exist for married couples eligible for the Earned Income Tax Credit and for high-income households, where black couples are still more likely than white couples to pay a marriage penalty.

[9] Anthony C. Infanti, "Decentralizing Family: An Inclusive Proposal for Individual Tax Filing in the United States," 2010 *Utah Law Rev.* 605 (2010), *https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1503543.*

the highest rate of home ownership was for white Americans at 74.5 percent and the lowest rate was for black Americans at 44.1 percent. As a result, all tax subsidies for home ownership will disproportionately benefit white Americans the most and black Americans the least. Home ownership has been historically and remains an asset tied to racial identity. Recent data show that roughly 1 in 10 Americans itemize deductions and those are disproportionately Americans with higher incomes.[10] The mortgage interest deduction, which can only be taken if a taxpayer itemizes their deductions, is becoming increasingly irrelevant to most homeowners.

There are other tax subsidies for home ownership however, that includes the tax treatment when we sell a home at a gain. Gains on sales of homes can escape taxation for up to $500,000 if the taxpayer is married or $250,000 if the taxpayer is single.[11] Losses on the sale of homes on the other hand are not deductible.[12] The special tax treatment for gain dates back to 1951. By 1950, 55 percent of white Americans had become homeowners—just a decade earlier only 44 percent of white Americans were homeowners. That explosive white home ownership growth was aided by low-cost, long-term, fixed interest rate mortgages insured by the Federal Government that largely excluded black Americans.[13] From its origins, the tax break for gain on home sales was designed to benefit white homeowners.

Established research shows us that the greatest appreciation in our homes comes when we live in neighborhoods which are overwhelmingly white with very few black neighbors.[14] As the percentage of black homeowners in the neighborhood increases, the value of the homes decrease particularly because white home buyer preferences, as the majority of home buyers, help establish the market prices. While most white homeowners live in neighborhoods with very few black neighbors, the majority of black homeowners live in racially diverse or all black neighborhoods with many black neighbors. As a result, white homeowners but not most black homeowners are more likely to sell at a large tax-free gain. Research also shows that the homeowners most likely to sell their homes at a non-deductible loss are black.[15] Tax subsidies for home ownership therefore create white tax winners and black tax losers. The Federal Government should stop subsidizing a racist home ownership market.

Tax subsidies for employer-provided retirement accounts are more likely to benefit white workers.

The final area I want to highlight are tax subsidies for work, specifically employer provided retirement accounts. Retirement accounts as a tax benefit traces its roots to 1942, when price and wage controls along with an excess profits tax, encouraged employers to provide non-wage benefits like retirement accounts. Amounts set aside in retirement accounts by employees (and if there's an employer-match amounts set aside by their employer) are not taxable to the employee until their expected withdrawal at retirement. If any amounts are withdrawn prior to the age of 59½ they are subject to an additional tax penalty. Black Americans are less likely than white Americans to work for employers that provide retirement accounts.[16] In the private sector, for workers aged between 21 and 64, 56 percent of white workers work for an employer that offers a retirement plan compared with 50 percent of black workers, and almost 35 percent of Hispanic workers. Almost 46 percent of white workers, almost 37 percent of black workers, and 25 percent of Hispanic workers actually participate in their private sector employer provided retirement account. Research also suggests that black workers are more likely than all other racial and ethnic groups to take an early withdrawal regardless of income and pay a tax penalty.[17] One potential explanation could come from research that shows black college graduates are more likely to send money home to their parents and other family members in financial distress, while white college graduates are more likely to receive money from their parents and other family members that enable them to be able

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[10] Tax Policy Center Analysis of 2018 Tax Return Data, *https://www.taxpolicycenter.org/model-estimates/impact-itemized-deductions-tax-cuts-and-jobs-act-jan-2018/t18-0001-impact-number.*

[11] Internal Revenue Code section 121.

[12] Internal Revenue Code section 165(c)(3).

[13] Richard Rothstein, "The Color of Law: A Forgotten History of How Our Government Segregated America" (Liveright Publishing Co., 2017).

[14] Dorothy A. Brown, "Home Ownership in Black and White: The Role of Tax Policy in Increasing Housing Inequity," 49 *Memphis L. Rev.* 205, 214–221 (2018).

[15] Sandra J. Newman and C. Scott Holupka, "Is Timing Everything? Race, Home Ownership and Net Worth in the Tumultuous 2000s," 44 *Real Est. Econ.* 307, 309 (2015).

[16] Craig Copeland, "Employment-Based Retirement Plan Participation: Geographic Differences and Trends," 2013, Employee Benefit Research Institute, No. 405 October 2014.

[17] The Ariel/Aon Hewitt Study 2012, "401(k) Plans in Living Color," at 11.

to save more and build wealth.[18] Black college graduates have to make their dollars stretch farther than their white peers which makes it less likely for them to be able to contribute to their retirement accounts and more likely to withdraw what they may have been able to contribute. Given that less than half of white workers, a little over a third of black workers and a quarter of Hispanic workers in the private sector participate in their retirement accounts, tax subsidies should be withheld until the private sector increases their participation rates.

The Whiteness of Wealth discusses many other areas where our Federal tax policies disadvantage black Americans, but they all lead to the conclusion that our tax laws need a fundamental overhaul that places racial equity at the center.

Solutions

No single change will be sufficient to address all the ways that racial inequality is embedded in our tax laws. My recommendation for a first step however would be to have the Internal Revenue Service publish statistics by race. In addition, every future congressional proposal for tax reform should come with a racial impact statement. In Chapter Six of *The Whiteness of Wealth* I outline my ideal tax system, but the point I wish to focus on here is that all income should be subject to the same progressive rate system. I am generally skeptical of deductions, exclusions, and loopholes because they tend to leave behind black Americans. I advocate for a wealth tax credit for all taxpayers in households with below median wealth. It would disproportionately benefit black taxpayers because of the racial wealth gap, but it would also benefit all taxpayers regardless of race and/or ethnicity with below median wealth. This proposal seeks to directly help those with the least wealth.

I will note in closing that other organizations have begun to highlight racial and other disparities found in our tax laws including the National Women's Law Center's report on Tax Justice is Gender Justice: Advancing Gender and Racial Equity by Harnessing the Power of the U.S. Tax Code[19] and the Center for Budget and Policy Priorities' How the Federal Tax Code Can Better Advance Racial Equity.[20] Congress can and must do better in order to achieve racial equity in the operation of our tax laws. As I wrote recently in *The New York Times:* "Black taxpayers should not be required to finance our own subordination."[21]

QUESTIONS SUBMITTED FOR THE RECORD TO DOROTHY A. BROWN

QUESTIONS SUBMITTED BY HON. MIKE CRAPO

Question. Income disparities exist across individuals and households, not all of which should be a reason for a particular tax policy concern. While there is concern, today's U.S. Federal income tax system is a progressive system, with more of Federal tax burden borne by higher-income households than for lower-income households. The Tax Cuts and Jobs Act included a number of provisions to make the individual income tax system even more progressive, including doubling the child tax credit, nearly doubling the standard deduction, and features such as Opportunity Zones to inject more financial capital into distressed communities.

There are also genuine policy concerns about wealth disparities among individuals and households.

Do you believe the income-tax system is the best thing to modify if the objective is to alter wealth disparities?

Answer. Given my research that shows the income tax system disadvantages black taxpayers, which impacts the racial wealth gap, I think reform of the income tax system is a necessary step and the best way to address the issue.

[18] Tatjana Meschede, Joanna Taylor, Alexis Mann, and Thomas Shapiro, "Family Achievements?: How a College Degree Accumulates Wealth for Whites and Not for Blacks," Federal Reserve Bank of St. Louis Review, First Quarter 2017, 99(1), pp. 121–37, *https://files.stlouisfed.org/files/htdocs/publications/review/2017-02-15/family- achievements-how-a-college-degree-accumulates-wealth-for-whites-and-not-for-blacks.pdf.*

[19] *https://nwlc.org/wp-content/uploads/2019/11/NWLC-Tax-Executive-Summary-Accessible.pdf.*

[20] *https://www.cbpp.org/research/federal-tax/how-the-federal-tax-code-can-better-advance-racial-equity.*

[21] Dorothy A. Brown, "Your Home's Value Is Based on Racism," *New York Times,* March 20, 2021, *https://www.nytimes.com/2021/03/20/opinion/home-value-race-taxes.html.*

Question. Your work emphasizes the tax code and economic disparities primarily between black or African American and white taxpayers. Others have emphasized the tax code and disparities felt by Hispanic taxpayers or disparities felt by Asian taxpayers. The common thread seems to be low income, wealth, and opportunity, and that it is desirable to look carefully at the tax code and at populations with low income, wealth, and opportunity.

Your recommendations seem to assert that disparities, and how persistent they have been, vary across groups, but whomever is facing low opportunity deserves attention. And I think we can all agree on that.

Do you believe there to be any extra gain from Congress making tax provisions dependent of a taxpayer's claimed identity, or whether it is best to focus on improving opportunity for prosperity independent of a taxpayer's identity classification?

Answer. Tax law currently impacts taxpayers based upon their racial identity. Today many black Americans pay higher taxes than their white peers. Changing that should be paramount for those who believe in equal opportunity for all.

Question. Wealth disparities that have been analyzed by some of our panelists include retirement wealth. Congress has worked over time to remove barriers to retirement savings. Last year, for example, the SECURE Act was signed into law.

Efforts have focused on making it easier for businesses, and small businesses in particular, to set up retirement savings plans for their workers, expanding opportunities for retirement savings for workers, including those who work part time, and enhancing portability of pensions given that workers often change jobs.

Meanwhile, over the past few decades, it has become easier for individuals to set up retirement accounts, and fees associated with those accounts have fallen.

We still see, however, that take-up of retirement plans can sometimes be low, even where a plan is offered by an employer and sometimes even when there is an employer match. And there are disparities in take-up rates that don't seem to be explainable by expected factors such as retirement-plan access and job type.

Do you have thoughts and policy ideas that you view as useful to help increase savings for retirement over a worker's life cycle, particularly for low-income workers in jobs where employers may not offer plans?

Answer. As I write about in my book *The Whiteness of Wealth,* I have several suggestions: automatic enrollment for eligible employees; repealing of the penalty for early withdrawal from retirement accounts; and ensuring that employers notify employees who are not maximizing their participation in their retirement plans.

Question. One recommendation that you have put forward for consideration is to remove most deductions, exclusions, and the like and start over to put a better tax code in place to even out disparities and assist in providing more opportunity. Many others have put forward similar recommendations. For example, in the past a Growth and Investment Tax Plan was put forward during President George H.W. Bush's presidency to vastly simplify the code and provide greater and wider opportunities for savings, investment, and wealth building. President George W. Bush emphasized an American Ownership Society to similarly expand opportunities.

Challenges arise with fundamentally restructuring the tax system, but any lasting reform must have bipartisan support.

Do you believe that fundamental changes to the tax system stand the best chance of long-lived success if done in a bipartisan fashion?

Answer. My research shows that currently black Americans pay higher taxes than white Americans. That needs to stop. Whichever way reform can come sooner, is what I believe. If that is through bipartisan agreement fine. But if bipartisan agreement cannot come—or cannot come quickly, then actual reform that can help the financial futures of black Americans must trump the idea of bipartisanship.

Question. There is a long history of bipartisan interest in removing high effective marginal tax rates associated with the various silos of low- and moderate-income support programs, which often have benefit cliffs or steep phase-outs. The nonpartisan CBO has issued numerous reports on those very high tax rates in the past.

What is your view on how we could make the varied low- and moderate-income support programs work better systemically to provide support without having extremely high effective marginal tax rates.

Answer. I have only studied this issue in the context of the earned income tax credit. I would recommend a repeal of the joint filing requirement so that the current significant marriage penalties found in the earned income tax credit would be eliminated.

QUESTION SUBMITTED BY HON. TODD YOUNG

Question. I am greatly concerned by President Biden's income tax proposal to allow for the unlimited deduction of State and local taxes. I have heard a number of my Democratic colleagues claim that repealing the cap on State and local taxes, also known as the SALT cap, is an important piece of relief for middle-class families. This could not be further from the truth—in fact, a recent study found that 96 percent of the benefit from repealing the SALT cap would go to the wealthiest Americans.

Especially as the Nation continues to recover from a pandemic that has disproportionately impacted small businesses and working-class families, do you believe it is wise to move forward with a proposal that will give middle-class families $10 or less in relief?

Answer. As I have already testified, I am opposed to the repeal of the SALT cap.

PREPARED STATEMENT OF HON. MIKE CRAPO,
A U.S. SENATOR FROM IDAHO

Welcome to our witnesses. I look forward to hearing your experiences, thoughts, and ideas today.

There are questions of whether the tax code by itself leads to differing impacts across race, gender, age, or geography, or whether it is underlying income, wealth, asset-holding, or job-type disparities that principally cause differing results. Underlying disparities are key, and it is important to know about them. There are a variety of disparities in measures of income, wealth, and assets across many dimensions. Examining the disparities using statistics shows a variety of results, along with changes in results over time. The Pew Research Center, for example, recently identified that income inequality for Asian Americans rose to become the highest among racial and ethnic groups.

Underlying causes of these disparities are not entirely clear, since causality is difficult to establish. As a result, there are different views. Some views focus on government policies, while others stress inequities in opportunities for education and asset building along with changing patterns of family formation and institutions like marriage.

Today, our witnesses will provide perspectives on the income tax system, barriers to opportunity, policy solutions we should consider, and economics.

Prior to the pandemic, the United States was experiencing one of the strongest economies across demographics in decades. With the Tax Cuts and Jobs Act in place, and an agenda focused on smart regulation, we saw progress along many dimensions, including: record low unemployment rates for African Americans, Hispanics, and others; 50-year lows in overall unemployment; robust wage gains skewed toward lower-wage earners; record high household incomes; and record low poverty.

The TCJA included a number of provisions to make the personal income tax system more progressive, including doubling the Child Tax Credit, nearly doubling the standard deduction, and features such as Opportunity Zones to inject more financial capital into distressed communities. It will be increasingly challenging to return to an economy as robust as we saw before the pandemic with the endless streams of tax hikes and regulation that the current administration continues to propose.

Going the opposite direction of combating inequality in the tax code are efforts to roll back the cap placed by TCJA on the State and local tax—or SALT—deduction. I expect some of the proposals we will hear about today will have promise, and others may not actually get to the root of the problems we are addressing. I am eager to hear more.

Whatever we consider, it will be important that policies are developed on a bipartisan basis. No one party has a monopoly on good ideas, and any work on persistent barriers to opportunity will ultimately fail if done in a partisan fashion.

I look forward to our hearing today, Mr. Chairman, and thank you.

PREPARED STATEMENT OF MIHIR A. DESAI, PH.D., MIZUHO FINANCIAL GROUP PROFESSOR OF BUSINESS, HARVARD BUSINESS SCHOOL; AND PROFESSOR OF LAW, HARVARD LAW SCHOOL, HARVARD UNIVERSITY *

Chairman Wyden, Ranking Member Crapo, and members of this distinguished committee, it is an honor to participate in these hearings on "Combating Inequality: The Tax Code and Racial, Ethnic, and Gender Disparities." I am the Mizuho Financial Group professor of business at Harvard Business School, a professor of law at Harvard Law School, and a research associate at the National Bureau of Economic Research. I have also taught at the Columbia and NYU Law Schools.

While equity is commonly understood as a guiding principle of tax policy (along with efficiency and administrability), the specific issues raised in this hearing—the role of race, ethnicity, and gender—are important considerations that have not received the attention that they deserve. I applaud your willingness to engage these questions and, in particular, I'm delighted to share this opportunity with Professor Dorothy A. Brown, who has done so much to advance the agenda around race, in particular.

My comments will emphasize race—rather than ethnicity and gender—but this emphasis merely reflects my limited ability in this constrained time frame. Race occupies a particular importance in our history and in this moment so I hope that my emphasis will not be misunderstood as reflecting the unimportance of ethnicity and gender or the racial subgroups that I neglect below. Some of my comments will generalize to ethnicity and gender and others won't. I look forward to other hearings and other efforts to fully explore these issues.

My remarks are divided into four parts.

First, I want to establish some facts around the correlation between race and income, savings, wealth, and mobility. Given that the tax system uses income and the returns to wealth as important inputs to taxing decisions, it is useful to consider the degree to which the tax system is "racist." In this first section, I also hope to establish the degree to which the views that are sometimes loosely grouped together as "critical tax theory" are well-founded and extremely valuable.

Second, I want to explore the degree to which ideas around taxation and racial justice can easily be elaborated incompletely. Specifically, this second section considers how analyses that outline the racial implications of tax laws should fully incorporate considerations that are typically ignored.

Third, I want to explore the degree to which analyses of race and tax policy—and of redistribution and progressivity more generally—may not just be incomplete but also self-defeating for the causes that many of us would like to advance—the situation of the least well-off and the cause of racial justice.

Finally, and more constructively, I want to explore the most meaningful ways to advance the goals of racial justice through the tax code. Racial justice is an important goal for many Americans today and pursuing this goal effectively through the tax code has several implications, some of which I will outline in this section.

I. RACE AND INCOME, SAVINGS, WEALTH, AND MOBILITY—IMPLICATIONS FOR TAX POLICY

Appendix A provides my understanding of the current data on the relationship between race and income, savings, wealth, and mobility with a particular emphasis on housing and the Global Financial Crisis (GFC). It is far from complete or definitive but it provides a useful foundation for subsequent questions.

While I encourage the reader to examine Appendix A in detail, the headline is straightforward and unavoidable: there is a staggeringly persistent and large correlation between race and income, saving, and wealth. For wealth, this correlation shows up in median and mean wealth levels, persists across age levels, has persisted over time, and shows up in the propensity and the magnitude of holdings of almost all asset types—with particularly important assets such as retirement assets

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* I thank Suzanne Antoniou for excellent research assistance and Jacob Bastian, James R. Hines Jr., Wojciech Kapczuk, Louis Kaplow, Youngme Moon, and Matthew Weinzierl for helpful conversations. All views expressed, and any errors, remain my own.

and housing showing large differences.[1] For income, this correlation shows up in median and mean income levels and the composition of quintiles of the income distribution and has persisted over time.[2] Savings rates—an important link between income and wealth—are also distinctive across races and these differences too have persisted over time.[3] Intergenerational dynamics compound these issues as transfers of wealth across generations are more likely and are larger for whites relative to blacks.[4] Similarly, blacks experience less upward mobility and more downward mobility in income class relative to whites.[5] Finally, the impact of the GFC was distinctive across races, with declining wealth levels and home ownership rates for blacks relative to whites.[6]

In an effort to isolate the ability to pay, the tax system employs income and the returns to wealth to raise revenue in an efficient manner. The returns to wealth are often granted preferential treatment, relative to labor income, in order to encourage certain behaviors, to offset the lock-in effect associated with a realization-based system, and to promote savings. The wisdom of these preferences is long-debated and I won't opine on their suitability here.[7] For our purposes, it is clear that these preferences intersect with the correlations discussed above.

Specifically, looking at certain preferences—such as the partial exclusion of capital gains on primary residences, the deferral advantage conferred on retirement savings, and step-up basis at death—in isolation will yield the following result: these preferences on returns to savings have a disparate impact on racial subgroups. I think this statement, as far as it goes, is incontrovertible. Indeed, it is unsurprising when one considers the correlations discussed above.

The remaining issues raised by this result are far less straightforward. Does this result constitute racism in the tax code? Is this analysis complete? And, what should we take away from this analysis?[8]

The first question is linked to deep questions in law, philosophy and sociology that are unsettled and highly contested. The question can be distilled crudely to be one of disparate treatment versus disparate impact, overt intent versus actual effect, and the underlying meaning of neutrality. I think it is both true that (a) there is no overt effort to treat racial subgroups disparately and, as such, it is racially neutral in its application, and (b) there is an actual effect of specific provisions when examined in isolation that leads to a disparate impact on racial subgroups. How one characterizes that duality in its full complexity is difficult, particularly given the omissions in such an analysis that I describe below. I would just offer that, in this setting, I think broad and pithy labels are unhelpful.

Before turning to the limitations of this analysis (including how it can be self-defeating), it is worth acknowledging the significant, overall value of this line of inquiry. If nothing else, reasserting the importance of addressing these underlying correlations as a policy agenda is incredibly useful and should be applauded. Addressing these persistent and large correlations between race and income, wealth, savings and mobility should constitute a central ambition for all policy-makers. That, however, does not mean that the analysis is fully correct nor does it mean that the tax system is a mechanism that has caused these correlations, that exacerbates these correlations nor that it should be the domain for remedying them.

[1] *See* "Survey of Consumer Finances, 1989–2019," Board of Governors of the Federal Reserve System; Bhutta, Chang, Dettling, and Hsu (2020); Choi, McCargo, Neal, Goodman, and Young (2019).

[2] *See* "Survey of Consumer Finances, 1989–2019," Board of Governors of the Federal Reserve System; Current Population Survey Annual Social and Economic Supplement data available at "HINC–05. Percent Distribution of Households, by Selected Characteristics Within Income Quintile and Top 5 Percent," United States Census Bureau.

[3] *See* 2019 Survey of Consumer Finances public data with estimates inflation-adjusted to 2019 dollars available at "Survey of Consumer Finances," Board of Governors of the Federal Reserve System.

[4] *See* Bhutta, Chang, Dettling, and Hsu (2020).

[5] *See* Chetty, Hendren, Jones, and Porter (2020).

[6] *See* Choi, McCargo, Neal, Goodman, and Young (2019); Burd-Sharps and Rasch (2015).

[7] *See* Graetz, Schenk, and Alstott (2018), pp. 566–575.

[8] These questions are tackled within the literature sometimes labeled "critical tax theory" which includes, but is not limited to, Brown (1997, 2009a, 2009b, 2010, 2012 and 2020), Knauer (2014), Martinez (2018), and Wallace (2020). Zelenak (1998, 2020) offers thoughtful commentary on this line of inquiry. These questions relate critically to broader debates regarding the meaning and role of structural racism in today's society.

II. ANALYZING RACE IN THE TAX CODE

Analysis of the type alluded to above—of a preference for certain returns to wealth relative to labor income—can yield the implication that these preferences have a disparate impact on racial subgroups. As with many such assertions in tax policy, this conclusion is a qualified one and can be highly incomplete when handled loosely. In particular, if analyzing the role of tax policy in impacting racial justice is a primary goal, then one would want to avoid three critical errors that can occur in this space. These three cautionary notes are not particular to the analysis of race but rather they are part and parcel of analyzing tax policy generally.

First, any analysis of tax policy needs to trace through the incidence of benefits or taxes beyond the claimants of any particular benefit. For example, tracing through the consequence of the low-income housing tax credit on racial subgroups is not straightforward. The actual claimants are largely financial institutions. Analyzing the impact of that benefit on racial subgroups would require one to make assertions about the division of that benefit on the side of the claimants (between capital, labor and customers of these banks as claimants) and on the side of the residents of low-income housing.[9] This is a very difficult exercise but required for understanding the racial impact of LIHTC. If one were to pursue a broader racial analysis of the tax code, these efforts could yield interesting additional insights but the direction and magnitude of all of these effects will require heroic assumptions that will not be remedied by collecting data on race on tax forms. Indeed, data about race on tax forms would not illuminate this question at all. The point is broad and applies equally to preferences on the returns to wealth, including on owner-occupied housing—these preferences will be capitalized into house prices, attenuating their effects, and may also be manifest in rental yield ratios and that impact will differ by race given lower home ownership amongst Blacks. In the case of housing preferences, these effects may not overturn what an analysis of claimants would suggest but in the case of LIHTC claimants, it most likely would. The ultimate beneficiaries of tax policies are rarely only nominal claimants.

Second, revenue-neutrality is an important discipline on tax analysis as it insists on considering how any policy change will be financed, including through borrowing, or spent. This discipline can yield surprising and counterintuitive results.[10] One such example pertains to repealing preferences for owner-occupied housing via the mortgage interest deduction. While the beneficiaries of the mortgage interest deduction are concentrated in higher income brackets, if these policy changes use the revenue from the repeal to reduce taxation in proportion to overall tax liabilities, then a repeal of the mortgage interest deduction can be a net benefit to higher-income tax payers.[11] In short, isolating a preference that benefits a subgroup is not enough to assert that it should be repealed because that preference exists in a larger system that requires financing—the discipline of revenue neutrality ensures that we think through its effects more broadly in a standardized way. It also prevents an analyst from making claims about particular provisions without considering the context of the broader tax system.

Third, the broader tax system is critical to consider in examining the overall impact on racial subgroups. Given the correlations of wealth and race identified above, it is not surprising that preferences for the returns to wealth may have a disparate impact on racial subgroups. By that exact logic, given the correlations of income and race identified above, it would not be surprising if progressive rates and refundable tax credits would have a disparate impact on racial subgroups as well. How all of these provisions interact is complex but it would seem to be clear that a full accounting of the impact of the tax system—as in the recent JCT document entitled "Overview of the Federal Tax System as in Effect for 2021"—would reveal the degree to which the current tax system is redistributive in a progressive manner. The degree to which this level of redistribution is appropriate is not our topic today. But, any analysis of the impact of the tax system on racial subgroups should include some overall assessment of the effect of the tax system *in toto* on racial subgroups.

[9] *See* Scally, Gold, and DuBois (2018); Freeman (2004); U.S. Department of Housing and Urban Development: Office of Policy Development and Research (2018).
[10] *See* Griffith (1989).
[11] *See* Hemel and Rozema (2017). See the table below from JCT (2021) for the degree to which the tax system relies on the top 1.3 percent of returns with 21.3 percent of income to provide 70.5 percent of individual income taxes.

Table A-6.–Distribution of Income and Taxes, and Average Tax Rates in 2021 (Projected)

Income Category [1]	Number of Returns [2] (Thousands)	Share of Returns	Income ($ Millions)	Share of Income	Combined Income, Employment, and Excise Taxes Under Present Law [3]			Individual Income Taxes			Employment Taxes		
					$ Billions	Percent share	Average Tax Rate	$ Billions	Percent share	Average Tax Rate	$ Billions	Percent share	Average Tax Rate
Less than $10,000	16,957	9.6%	55,754	0.3%	-35.1	-1.3%	-62.9%	-45.3	-3.7%	-81.2%	7.2	0.6%	13.0%
$10,000 to $20,000	16,993	9.6%	258,775	1.6%	-57.6	-2.1%	-22.3%	-90.4	-7.4%	-34.9%	27.9	2.2%	10.8%
$20,000 to $30,000	20,183	11.4%	502,938	3.0%	-34.6	-1.3%	-6.9%	-86.5	-7.1%	-17.2%	45.1	3.6%	9.0%
$30,000 to $40,000	16,715	9.4%	581,990	3.5%	0.1	0.0%	0.0%	-58.3	-4.8%	-10.0%	51.0	4.0%	8.8%
$40,000 to $50,000	14,568	8.2%	654,914	3.9%	26.5	1.0%	4.0%	-40.3	-3.3%	-6.1%	58.6	4.6%	8.9%
$50,000 to $75,000	28,100	15.8%	1,727,270	10.4%	138.4	5.1%	8.0%	-33.4	-2.7%	-1.9%	149.8	11.8%	8.7%
$75,000 to $100,000	17,767	10.0%	1,539,767	9.2%	183.8	6.8%	11.9%	27.6	2.3%	1.8%	136.0	10.7%	8.8%
$100,000 to $200,000	31,959	18.0%	4,455,175	26.7%	726.1	26.7%	16.3%	252.4	20.6%	5.7%	412.4	32.5%	9.3%
$200,000 to $500,000	11,913	6.7%	3,349,967	20.1%	764.4	28.1%	22.8%	435.9	35.5%	13.0%	280.2	22.1%	8.4%
$500,000 to $1,000,000	1,543	0.9%	1,033,743	6.2%	282.8	10.4%	27.4%	215.2	17.5%	20.8%	53.7	4.2%	5.2%
$1,000,000 and over	715	0.4%	2,519,266	15.1%	722.2	26.6%	28.7%	649.5	53.0%	25.8%	45.4	3.6%	1.8%
Total, All Taxpayers	177,415	100.0%	16,679,558	100.0%	2,716.9	100.0%	16.3%	1,226.5	100.0%	7.4%	1,267.4	100.0%	7.6%

These cautionary notes on studying tax policy and race do not suggest that efforts to think about race and tax policy are not worthwhile. To the contrary, these notes simply make clear that observations about claimants of certain preferences are not a sufficient method to think through the racial impact of tax policy. And, tracing through and incorporating the effect on ultimate beneficiaries, incorporating financing considerations, and framing these within the overall tax system will be a critical step in any such analysis.

Finally, some analysts consider collecting data about race on tax forms a critical next step in furthering this analysis.[12] Putting aside the sizable practical considerations that such an effort would face, there are two additional considerations that apply in this debate. First, analysis that incorporates existing information about the distribution of income and wealth could be integrated into analysis of tax policy without additional collection of information. Such an effort would be incomplete but given the practical considerations associated with putting race on tax forms it would seem to be useful to focus attention where it will likely be most effective. Second, and as indicated above, collection of data at the taxpayer level won't assist in the harder questions required to think through racial justice in the tax code.

III. THE SELF-DEFEATING POTENTIAL OF ANALYSES OF RACE IN THE TAX CODE

Tax analyses that consider race can also go astray. For example, analysts that note the differential impact on racial subgroups of the tax treatment of marriage have suggested flat rates be employed to resolve the well-understood "trilemma" of progressivity, marriage neutrality, and couple equality.[13] Analysts in this literature have also dismissed the role of the Earned Income Tax Credit in the debate on racial justice by claiming that "whites disproportionately benefit from the EITC" and that "the greatest beneficiaries of the Earned Income Tax Credit were white."[14] Finally, when seeking solutions to these problems, analysts suggest radical solutions that amount to effectively blowing up the tax code and starting from scratch.[15]

These claims can be self-defeating for the cause of racial justice because they underemphasize the role of current provisions in advancing the agenda of racial justice. Specifically, undercutting the progressivity of rates and tax credits that disproportionately benefit lower-income individuals derails the consensus that should be building around their expansion. And, suggesting a clean slate for the tax system naively assumes that the hard-won victories that are embedded in the tax code that redistribute income and that serve disadvantaged communities will be somehow mirrored in this idealized future. Radical reform efforts could just as easily be captured by forces that would reduce the racial justice of the tax code. More narrowly, as one example, rather than abandoning all savings incentives, we should consider narrowing some and expanding others. Idealized and radical reforms can be enjoyable intellectual exercises but they can also be distracting diversions from the hard work of revising the tax code in the real world.

In a related vein, a singular focus on racial justice can also lead us astray. Perry and Romer (2021) advocate for the cancellation of student debt without means-testing specifically because it would address the racial wealth gap.[16] First, their contemplated reform does not impose revenue-neutrality raising the questions above on what taxes would be raised to finance this reform. More importantly, such a reform would be remarkably regressive, as demonstrated by the work of Catherine and Yannelis (2021).[17] I don't mean to judge that particular reform, but it is worth not-

[12] *See* Bearer-Friend (Fall 2019); Brown (2021); Knauer (2014).
[13] *See* Brown, p. 129 in Infanti and Crawford (2009).
[14] *See* Brown (2009a), p. 580; Brown (Fall 2012), p. 54.
[15] *See* Brown (2021), pp. 200–225.
[16] *See* Perry and Romer (2021).
[17] *See* Catherine and Yannelis (2021).

ing how any tunnel vision about a particular issue obscures important collateral consequences that must be considered in any serious policy analysis.

This potential to be led astray is manifest more broadly in tax policy discussions today. The real promise of this hearing and of an increased emphasis on race, ethnicity and gender is to reorient our policy debate away from its current obsession with inequality broadly and toward a sharper focus on those in our country in deep need. Over the last 20 years, academic studies that claim sharply rising levels of income and wealth inequality have become accepted as fact and undergird much policy discussion today. Related studies claim that the tax system does little to address inequality and that novel instruments are required to address these issues.

First, it is little acknowledged how contested and controversial these underlying studies are. Various new studies have called into question the magnitude of these changes using the same data and using alternative data.[18] Specifically, these inequality studies contain important assumptions about the distribution of tax avoidance, the changing role of pass-throughs and business income in measured changes in inequality, and are interpreted as factual when, in fact, they feature many contested imputations and assumptions. My reading of this literature suggests that while inequality has increased modestly over the last several decades, it is far exaggerated in the popular imagination because of inattention to these considerable questions. These studies, and the obsession with rising inequality, are problematic for several reasons. They orient attention to the very rich (the top 0.1 percent or the top 400) and away from other parts of the income distribution. As one example, they distract attention from the fundamental role of pass-throughs in altering measured income distribution and the taxation of capital and labor income. More perniciously, they distract attention from the important questions of what we can and should do for the bottom quintiles of the income distributions by emphasizing what is happening to the top 400 taxpayers.

More dangerously, these studies pretend that the tax system that we have does little to no redistribution and that levels of redistribution have been declining.[19] The Congressional Budget Office makes clear that average tax rates have been evolving over the relevant period and that the tax system is doing more redistribution than in the past.[20] Advocates for more redistribution who deny this reality don't serve their cause via their obfuscation.

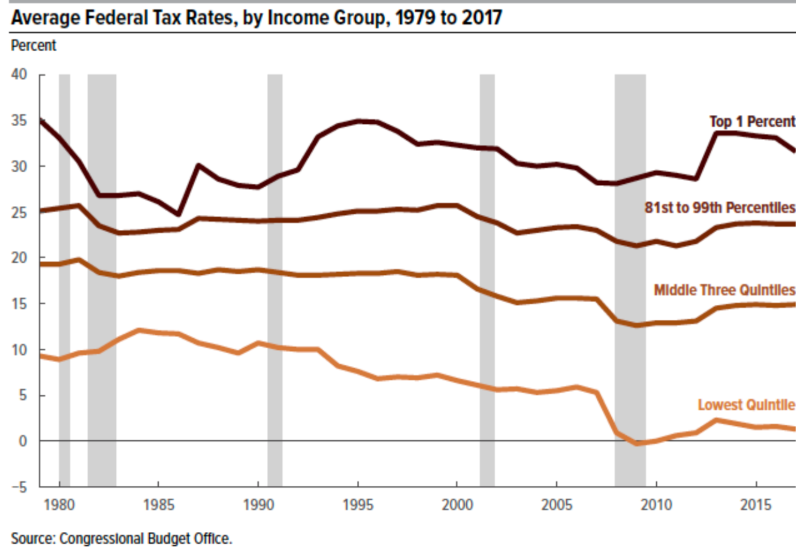
Rather than consider the success in reducing average tax rates for the bottom quintile and raising the average tax rate for the top quintile, this literature encourages us to refocus our attention on the purported hidden hundreds of billions in offshore tax havens. Those estimates of hidden billions are vastly exaggerated. Most broadly, they feed a common and mistaken narrative today—that somehow responsible fiscal policy is just about getting the rich and corporations to pay their fair share via novel instruments including a wealth tax and multilateral cooperation on corporate tax policy.[21] And, they allow the middle of the income distribution to feel that they are getting cheated by the tax system and they too deserve more relief.

[18] *See* Auten and Splinter (December 2019); Auten and Splinter in Furchtgott-Roth (2021); Auten and Splinter (May 2019); Smith, Yagan, Zidar, and Zwick (2019); Smith, Yagan, Zidar, and Zwick (December 22, 2019); Smith, Zidar, and Zwick (April 2020); Bricker, Krimmel, Henriques, and Sabelhaus (Spring 2016).

[19] *See* Saez and Zucman (2019).

[20] *See* Gale (2019) and Splinter (December 2020).

[21] *See* Desai, Mihir A. (March 2021); ifo Institut—Leibniz-Institut für Wirtschaftsforschung an der Universität München e.V. (March 2021).



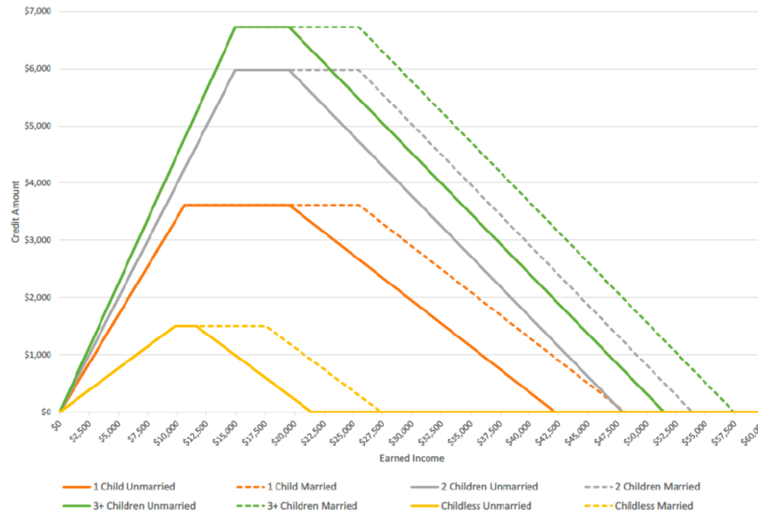
In the process, these efforts obscure what the real agenda should be—how should we get more resources to the bottom two quintiles, which should be the goal of those seeking greater economic justice. It is curious that many of these efforts don't mention (or measure) the Earned Income Tax Credit in their discussions of economic justice despite its role as a critical anti-poverty program. Similarly, it has become fashionable to discuss a universal basic income or to generously extend the Child Tax Credit well beyond the bottom two quintiles rather than expand the Earned Income Tax Credit in a significant way. The scholarship on low-income families is clear—expanding Child Tax Credits is far less beneficial than expanding the EITC, expanding the EITC dominates any idea of UBI, and the EITC is a powerful tool in promoting all kinds of good outcomes.[22] In this sense, the broader inequality debate obscures the readily available solutions to issues of racial and economic justice—the EITC and more progressive rate structures—and focuses our attention incorrectly on issues of corporate taxation, the possibility of wealth taxation, greater middle-class tax relief and broad-based entitlements. To be clear, ensuring that the very wealthy and corporations comply with tax laws and that they pay their appropriate share is critical and could provide some incremental revenue but these obsessions have come to eclipse many more important issues.

IV. MOVING FORWARD

As I stated previously, the real promise of this hearing and of an increased emphasis on race, ethnicity and gender is to reorient our policy debate away from its current obsession with inequality broadly and toward a sharper focus on how the tax system can serve those who need the most help. This requires pragmatic thinking, adherence to tested policy tools and data-driven analyses that consider what will impact the welfare of the populations that we most need to focus on.

With that frame, it seems clear that expanding the EITC in two directions would be enormously beneficial to the causes of economic, racial and gender justice.[23] The EITC for 2021 by earned income, drawn from JCT (2021) is provided below:

[22] *See* Hoynes (2019); Hoynes and Rothstein (March 2016); Hoynes and Rothstein (2019); Bastian (2020); Bastian and Michelmore (2018); Bastian and Lochner (January 2021); Bastian, and Jones (April 2021).
[23] *See* Appendix B for more information on the EITC.



Source: Joint Committee staff calculations.

One could provide a refundable credit amount of $4,000 at all income levels so that it would be unconditional, effectively shifting these curves, including the plateau region, up. This would preserve work incentives but do the work of the child credit in a more targeted way. Second, one could expand the childless EITC to make it more meaningful.[24] This change could be financed through the progressive rate structure. The notion described above that this would not help black women disproportionately is not correct. According to the American Community Survey, white women are a lower share of EITC recipients than they are of the overall share of the population and they constitute the same share of women under the poverty line and those under the poverty line that qualify for the EITC. The slightly lower marriage rate and slightly higher number of children of black women relative to white women suggests that EITC benefits will be larger for blacks as well. And, Jones (2014) indicates that take-up rates for blacks are slightly higher than for whites.[25]

Expanding the EITC does not have the drama of tearing up the tax code, eliminating all savings preferences or demonizing corporations and the very wealthy. But, it would appear to be the simplest and most straightforward way to improve the racial justice of the tax code on the terms described by analysts who have led this effort to incorporate race into an analysis of tax policy. Similarly, the recently authorized child credit expansion, though not sufficiently well targeted from an income perspective in my view, is projected to provide the largest reduction in black child poverty in the history of antipoverty policy-making, clear evidence that race-neutral policies can be very effective at improving outcomes for black Americans.

Such expansions may not directly address the concerns over the racial wealth gap. But, over time, providing more income to those at the bottom of the income distribution will allow them to begin saving and building wealth. More broadly, it is worth acknowledging how difficult it is to provide wealth to the bottom of the income distribution in the context of our current income tax. It is conceivable that targeted saving incentives with sharp phase-outs could also help, though it is not clear *a priori* what the magnitude or sign of the change in racial wealth gaps will be, given the current inability to target these incentives based on race.[26]

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[24] *See* Hoynes and Rothstein (March 2016) for elaboration on this.
[25] *See* Jones (July 11, 2014).
[26] *See* Appendix C for a crude exploration of policies that treat ethnic subgroups differently and a particular experiment with gender in India.

Reparations would seem best suited to address the question of the racial wealth gap.[27] It is worthwhile noting that comparable efforts at reparations—including those for Japanese-Americans, payments to Holocaust survivors, the Truth and Reconciliation Commission in South Africa, and local American efforts such as those in Rosewood, Florida—did not employ the tax system (other than the question of whether those reparation payments would be taxable). That is, I believe the reparations debate is a very important one to initiate in earnest and it could address the racial wealth gap in interesting ways—but there is no clear, obvious reason to operate it through the tax system.

Most broadly, this hearing will succeed not by emphasizing how and why the tax system may or may not exacerbate racial justice. The true payoff of this hearing will be if the underlying correlation of race with income, wealth, savings and mobility regains its status as a question of central importance to the future of the country. Even if I disagree with particularities of their analysis, I wholeheartedly appreciate and admire the efforts of Professor Brown and others to emphasize these issues. And, I very much hope you all find the courage and wisdom to address these questions as directly as one can, in the tax code and otherwise.

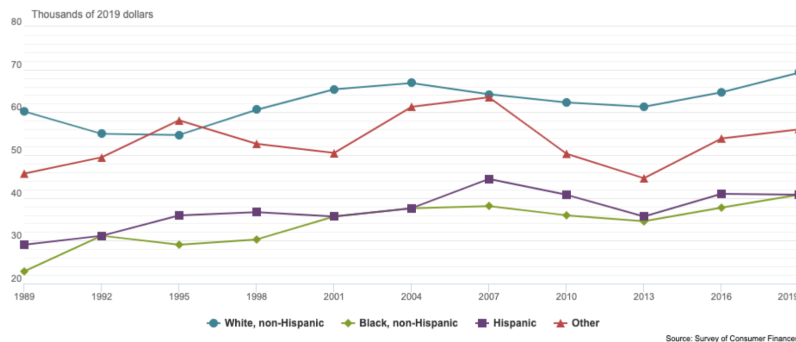
Appendix A

The Correlation Between Race and Income, Wealth, Savings, and Mobility

Income

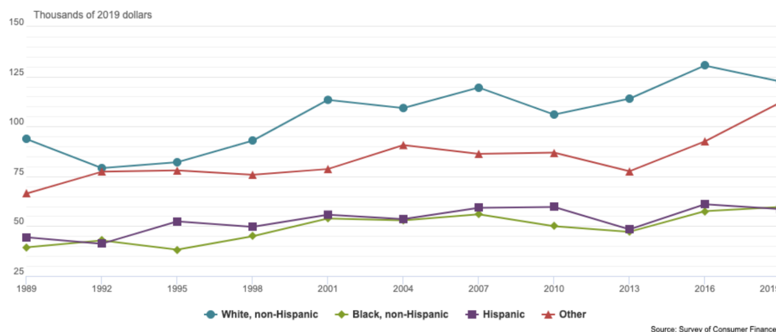
Before-tax family income

– The median before-tax family income of white, non-Hispanic households in 2019 was 70 percent greater than that of black, non-Hispanic households. From 1989 to 2019, the median before-tax family income of white, non-Hispanic households has been consistently greater and ranged from 69–164 percent greater. ["Survey of Consumer Finances, 1989–2019," Board of Governors of the Federal Reserve System, *https://www.federalreserve.gov/econres/scf/dataviz/scf/chart/#series:Before_Tax_Income;demographic:racecl4;population:all;units:median.*]



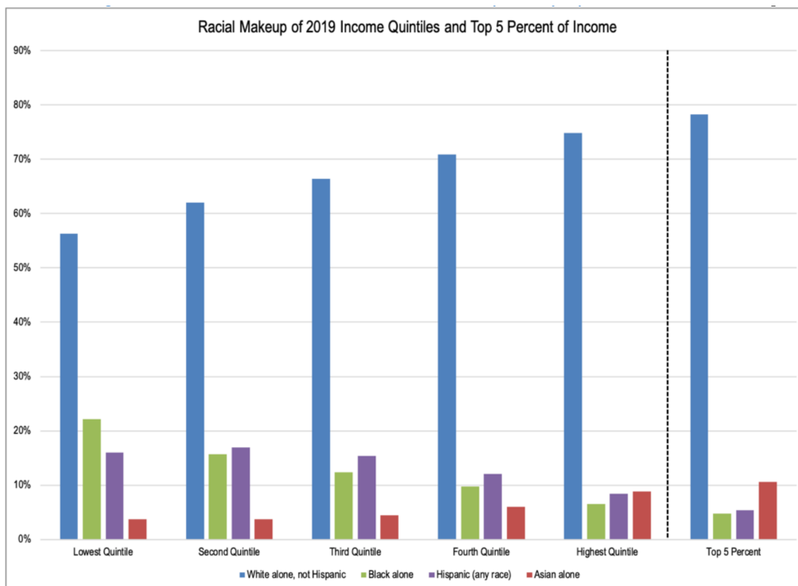
– The mean before-tax family income of white, non-Hispanic households in 2019 was 106 percent greater than that of black, non-Hispanic households. From 1989 to 2019, the mean before-tax family income of white, non-Hispanic households has been consistently greater and ranged from 85–141 percent greater. ["Survey of Consumer Finances, 1989–2019," Board of Governors of the Federal Reserve System, *https://www.federalreserve.gov/econres/scf/dataviz/scf/chart/#series:Before_Tax_Income;demographic:racecl4;population:all;units:median.*]

[27] *See* Desai, Page, Antoniou, and Fan (2021) for a history on reparations, the example of the Tulsa Massacre, and information related to the current reparations debate in the U.S. at *https://courseware.hbs.edu/public/tulsa/*.



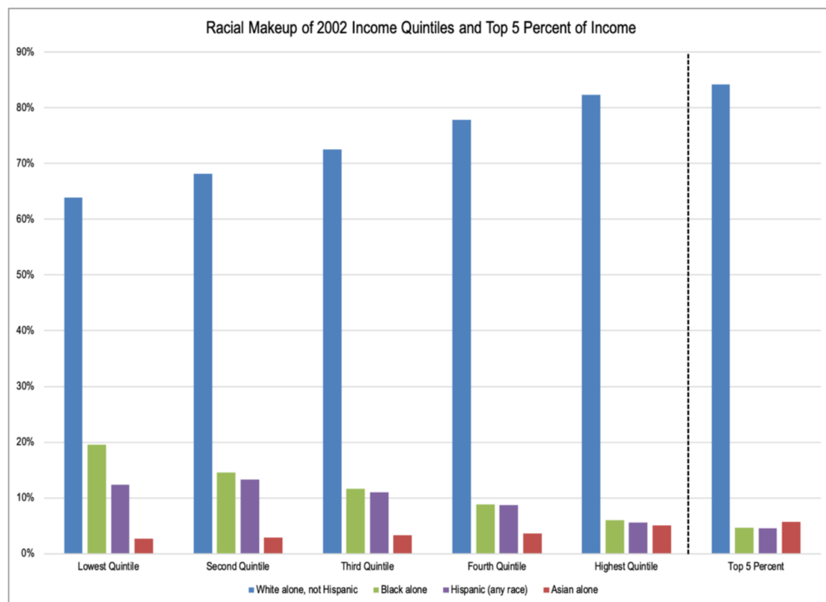
Income quintiles and top 5 percent of income

– In 2019, 56.3 percent of those in the lowest income quintile were white alone, not Hispanic and 22 percent were black alone. In the highest quintile, 74.8 percent were white alone, not Hispanic and 7 percent were black alone. In the top 5 percent, 78 percent were white alone, not Hispanic and 5 percent were black alone. [Current Population Survey Annual Social and Economic Supplement data available at "HINC-05. Percent Distribution of Households, by Selected Characteristics Within Income Quintile and Top 5 Percent," United States Census Bureau, *https://www.census.gov/data/tables/time-series/demo/income-poverty/cps-hinc/hinc-05.html.*]



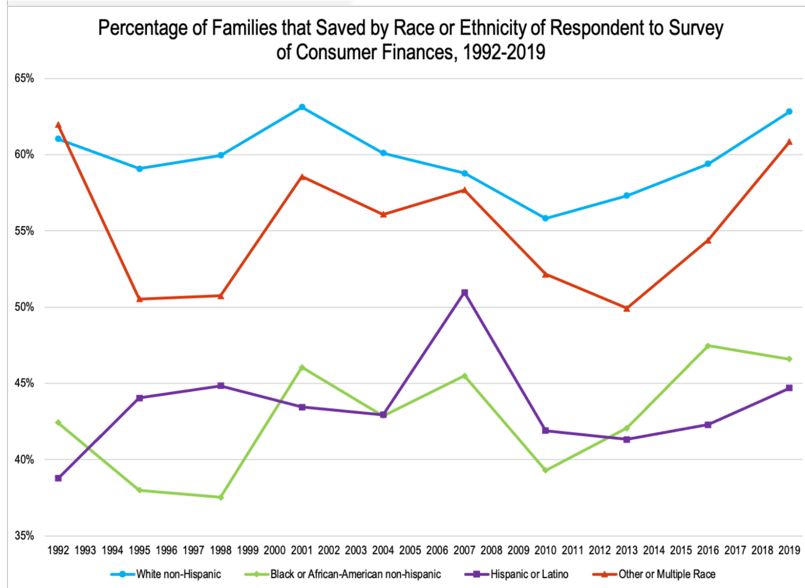
– In 2002, 64 percent of those in the lowest income quintile were white alone, not Hispanic and 20 percent were black alone. In the highest quintile, 82 percent were white alone, not Hispanic and 6 percent were black alone. In the top 5 percent, 84 percent were white alone, not Hispanic and 5 percent were black alone. [Current Population Survey Annual Social and Economic Supplement data available at "HINC–05. Percent Distribution of Households, by Selected Characteristics Within Income Quintile and Top 5 Percent," United

States Census Bureau, *https://www.census.gov/data/tables/time-series/demo/income-poverty/cps-hinc/hinc-05.html.*]



Savings

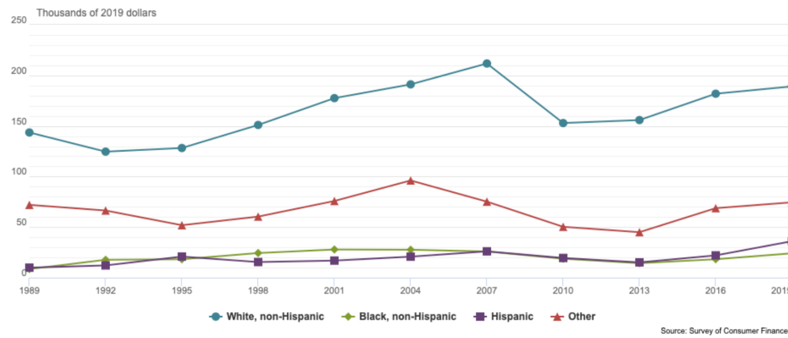
Based on SCF data, white, non-Hispanic households in 2019 were 34.9 percent more likely to save than black, non-Hispanic households. From 1992–2019, white, non-Hispanic households have been consistently more likely to save and this greater likelihood has ranged from 25.1 percent to 59.8 percent. [Excel based on public data with estimates inflation-adjusted to 2019 dollars on "Survey of Consumer Finances," Board of Governors of the Federal Reserve System, *https://www.federalreserve.gov/econres/scfindex.htm.*]



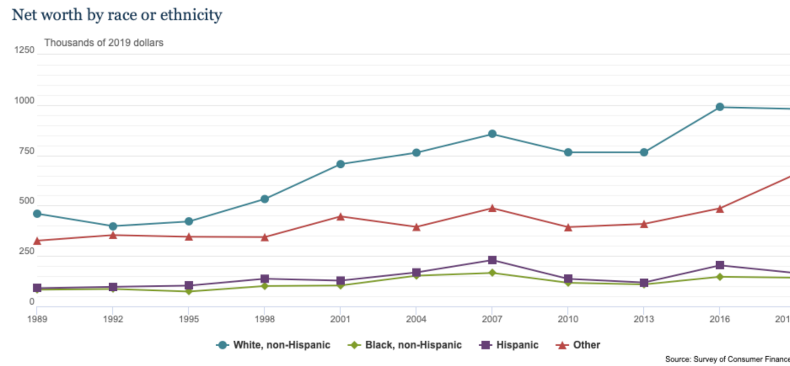
Wealth

Net worth

– The median net worth of white, non-Hispanic households in 2019 was 685 percent greater than that of black, non-Hispanic households. From 1989 to 2019, the median net worth of white, non-Hispanic households has been consistently greater and ranged from 519–1579 percent greater. ["Survey of Consumer Finances, 1989–2019," Board of Governors of the Federal Reserve System, *https://www.federalreserve.gov/econres/scf/dataviz/scf/chart/#series:Before_Tax_Income;demographic:racecl4;p opulation:all;units:median.*]



– The mean net worth of white, non-Hispanic households in 2019 was 589 percent greater than that of black, non-Hispanic households. From 1989 to 2019, the mean net worth of white, non-Hispanic households has been consistently greater and ranged from 363–603 percent greater. ["Survey of Consumer Finances, 1989–2019," Board of Governors of the Federal Reserve System, *https://www.federalreserve.gov/econres/scf/dataviz/scf/chart/#series:Before_Tax_Income;demographic:racecl4;population:all;units:median.*]



– Across different age groups, median wealth for black Americans is consistently less than that of white Americans: for under 35, median wealth for white Americans is 42.3 times that of black Americans; for 35–54, median wealth for white Americans is 4.6 times that of black Americans; and for over 55, median wealth for white Americans is 5.9 times that of black Americans. [Bhutta, Chang, Dettling and Hsu, "Disparities in Wealth by Race and Ethnicity in the 2019 Survey of Consumer Finances," Board of Governors of the Federal Reserve System, September 28, 2020, *https://www.federalreserve.gov/econres/notes/feds-notes/disparities-in-wealth-by-race-and-ethnicity-in-the-2019-survey-of-consumer-finances-20200928.htm.*]

Table 1: Wealth rises with age for all families, but substantial wealth gaps between white and non-white families persist throughout the life-cycle.

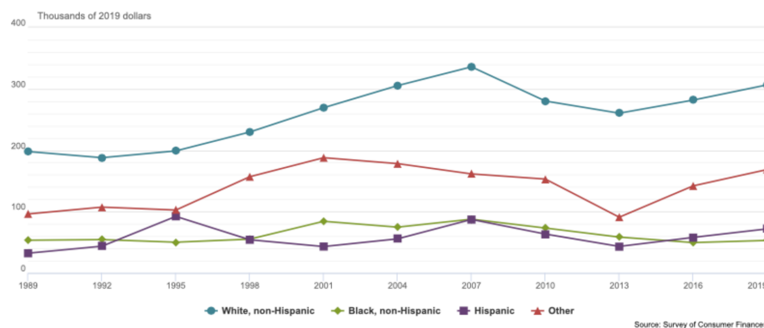
	White	Black	Hispanic	Other
Under 35	25.4	0.6	11.2	13.5
35–54	185.0	40.1	46.1	154.5
Over 55	315.0	53.8	111.5	213.2

Source: Federal Reserve Board, 2019 Survey of Consumer Finances.

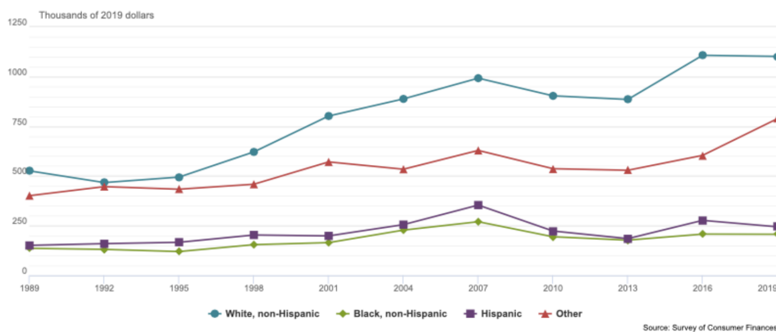
Notes: Table displays median wealth by age group and by race and ethnicity in thousands of 2019 dollars.

Assets

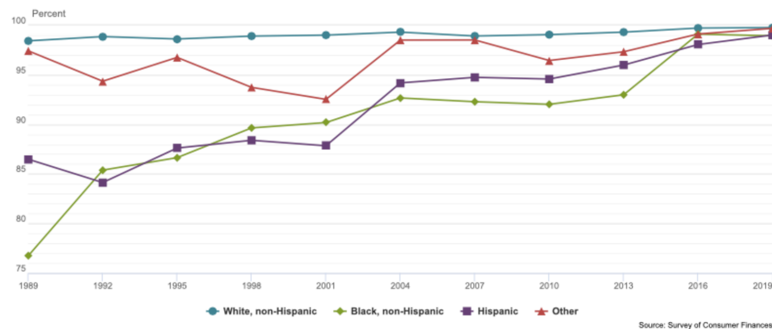
– The median assets of white, non-Hispanic households in 2019 was 478 percent greater than that of black, non-Hispanic households. From 1989 to 2019, the median assets of white, non-Hispanic households have been consistently greater and ranged from 220–478 percent greater. ["Survey of Consumer Finances, 1989–2019," Board of Governors of the Federal Reserve System, *https://www.federalreserve.gov/econres/scf/dataviz/scf/chart/#series:Before_Tax_Income;demographic:racecl4;population:all;units:median.*]



– The mean assets of white, non-Hispanic households in 2019 was 432 percent greater than that of black, non-Hispanic households. From 1989 to 2019, the mean assets of white, non-Hispanic households have been consistently greater and ranged from 256–433 percent greater. ["Survey of Consumer Finances, 1989–2019," Board of Governors of the Federal Reserve System, *https://www.federalreserve.gov/econres/scf/dataviz/scf/chart/#series:Before_Tax_Income;demographic:racecl4;population:all;units:median.*]

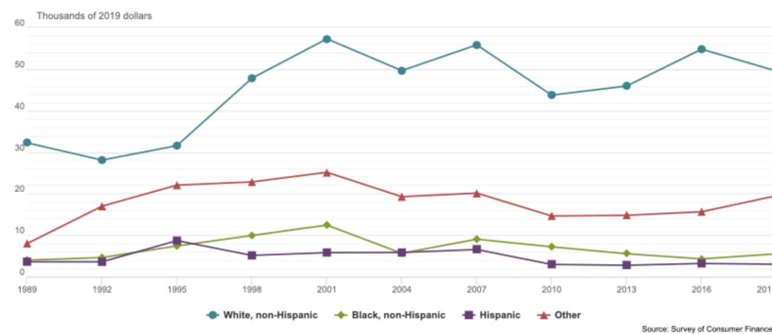


– In 1989, the gap between white, non-Hispanic households and black, non-Hispanic households that held assets was 21.7 percentage points and has decreased to 0.8 percentage points in 2019. ["Survey of Consumer Finances, 1989–2019," Board of Governors of the Federal Reserve System, *https://www.federalreserve.gov/econres/scf/dataviz/scf/chart/#series:Before_Tax_Income;demographic:racecl4;population:all;units:median.*]

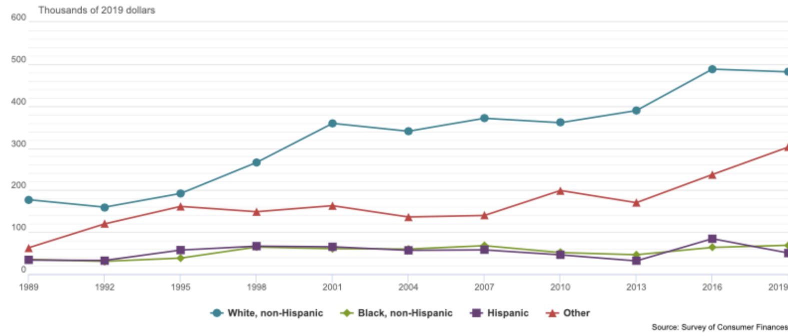


Financial assets

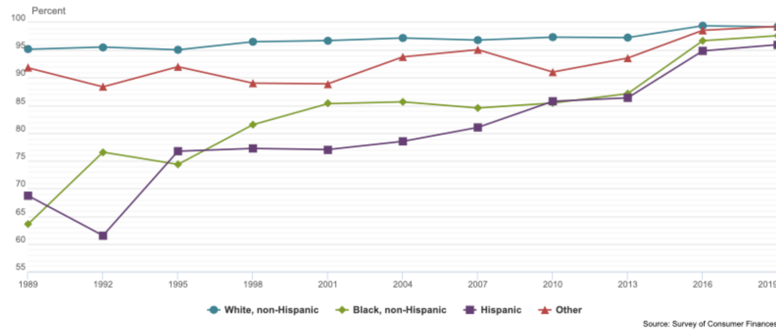
– The median financial assets of white, non-Hispanic households in 2019 was 800 percent greater than that of black, non-Hispanic households. From 1989 to 2019, the median financial assets of white, non-Hispanic households have been consistently greater and ranged from 327–1,178 percent greater. ["Survey of Consumer Finances, 1989–2019," Board of Governors of the Federal Reserve System, *https://www.federalreserve.gov/econres/scf/dataviz/scf/chart/#series:Before_Tax_Income;demographic:racecl4;population:all;units:median.*]



– The mean financial assets of white, non-Hispanic households in 2019 was 600 percent greater than that of black, non-Hispanic households. From 1989 to 2019, the mean financial assets of white, non-Hispanic households have been consistently greater and ranged from 312–742 percent greater. ["Survey of Consumer Finances, 1989–2019," Board of Governors of the Federal Reserve System, *https://www.federalreserve.gov/econres/scf/dataviz/scf/chart/#series:Before_Tax_Income;demographic:racecl4;population:all;units:median.*]

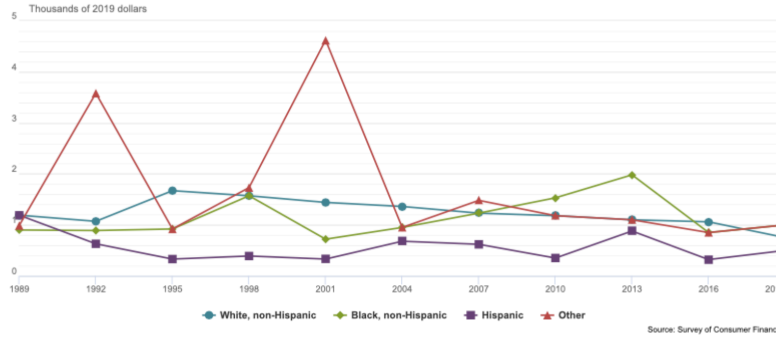


– In 1989, the gap between white, non-Hispanic households and black, non-Hispanic households that held financial assets was 31.6 percentage points and has decreased to 1.6 percentage points in 2019. [“Survey of Consumer Finances, 1989–2019,” Board of Governors of the Federal Reserve System, *https://www.federalreserve.gov/econres/scf/dataviz/scf/chart/#series:Before_Tax_Income;demographic:racecl4;population:all;units:median.*]

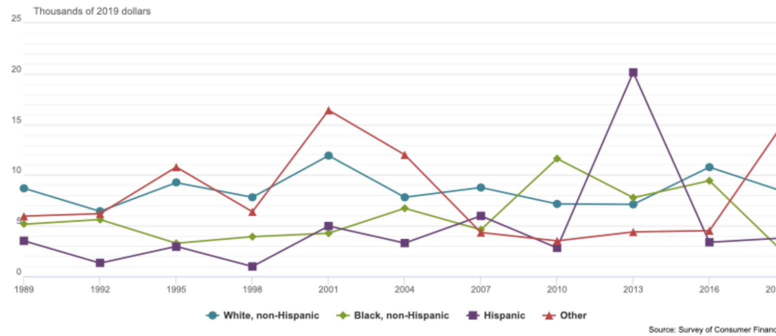


Savings bonds

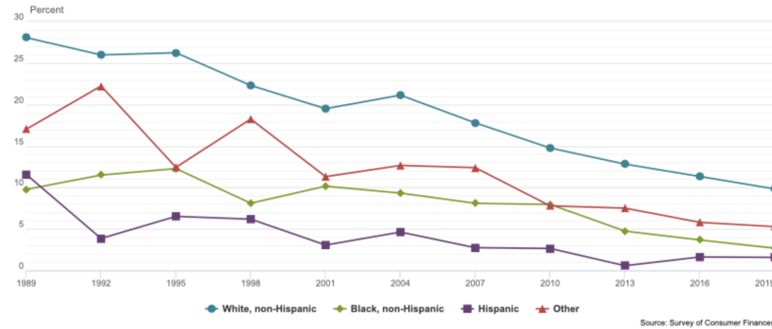
– The median savings bonds of black, non-Hispanic households in 2019 was 33 percent greater than that of white, non- Hispanic households. In 2007, the median savings bonds of black, non-Hispanic and white, non-Hispanic households were equal and since then the median savings bonds of black, non-Hispanic households have been greater. [“Survey of Consumer Finances, 1989–2019,” Board of Governors of the Federal Reserve System, *https://www.federalreserve.gov/econres/scf/dataviz/scf/chart/#series:Before_Tax_Income;demographic:racecl4;population:all;units:median.*]



– The mean savings bonds of white, non-Hispanic households in 2019 was 284 percent greater than that of black, non-Hispanic households. Between 1989 and 2019, the mean savings bonds of white, non-Hispanic households have been greater than that of black, non-Hispanic households except for in 2010 and 2013. ["Survey of Consumer Finances, 1989–2019," Board of Governors of the Federal Reserve System, *https://www.federalreserve.gov/econres/scf/dataviz/scf/chart/#series:Before_Tax_Income;demographic:racecl4;population:all;units:median.*]

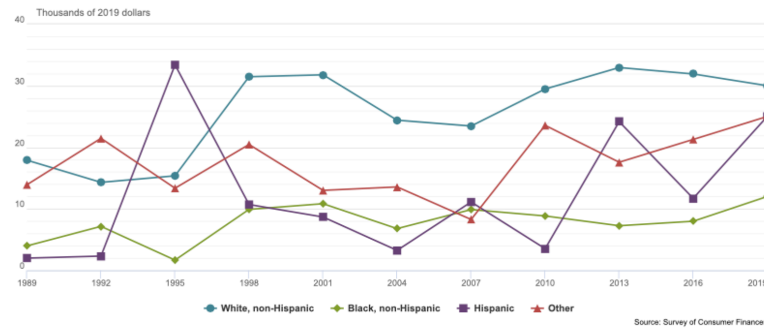


– The percent holding savings bonds has declined for both black, non-Hispanic households and white, non-Hispanic households between 1989 and 2019. ["Survey of Consumer Finances, 1989–2019," Board of Governors of the Federal Reserve System, *https://www.federalreserve.gov/econres/scf/dataviz/scf/chart/#series:Before_Tax_Income;demographic:racecl4;population:all;units:median.*]

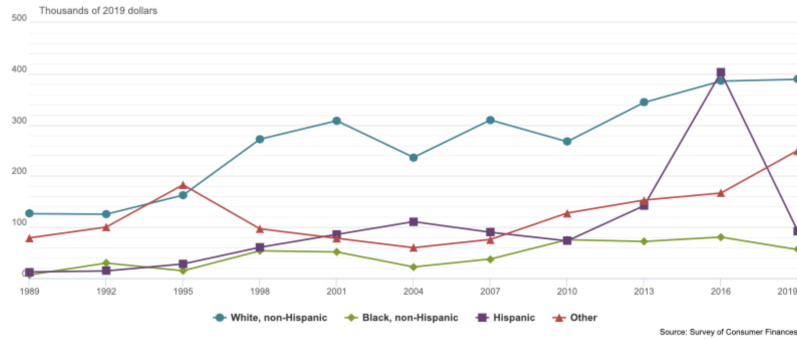


Directly held stocks

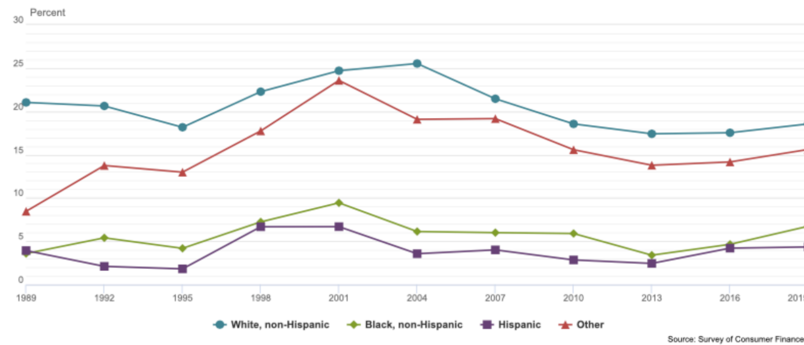
– The median directly held stocks of white, non-Hispanic households in 2019 was 150 percent greater than that of black, non-Hispanic households. From 1989 to 2019, the median directly held stocks of white, non-Hispanic households have been consistently greater and ranged from 100–820 percent greater. [“Survey of Consumer Finances, 1989–2019,” Board of Governors of the Federal Reserve System, *https://www.federalreserve.gov/econres/scf/dataviz/scf/chart/#series:Before_Tax_Income;demographic:racecl4;population:all;units:median.*]



– The mean directly held stocks of white, non-Hispanic households in 2019 was 594 percent greater than that of black, non-Hispanic households. From 1989 to 2019, the mean directly held stocks of white, non-Hispanic households have been consistently greater and ranged from 255–1,831 percent greater. [“Survey of Consumer Finances, 1989–2019,” Board of Governors of the Federal Reserve System, *https://www.federalreserve.gov/econres/scf/dataviz/scf/chart/#series:Before_Tax_Income;demographic:racecl4;population:all;units:median.*]

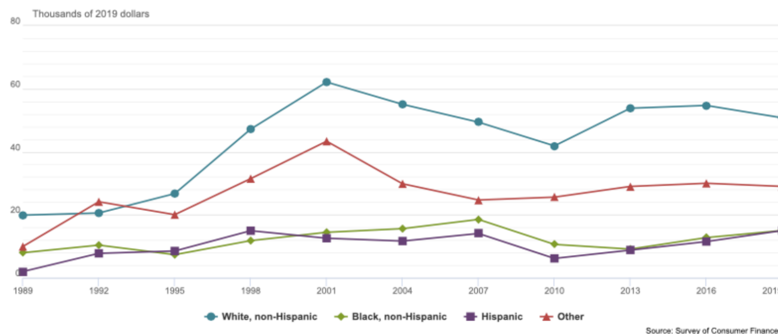


– Between 1989 and 2019, the percent of white, non-Hispanic households with directly held stocks has been consistently larger than that of black, non-Hispanic households and has ranged from 12–19 percentage points greater. [“Survey of Consumer Finances, 1989–2019,” Board of Governors of the Federal Reserve System, *https://www.federalreserve.gov/econres/scf/dataviz/scf/chart/#series:Before_Tax_Income;demographic:racecl4;population:all;units:median.*]

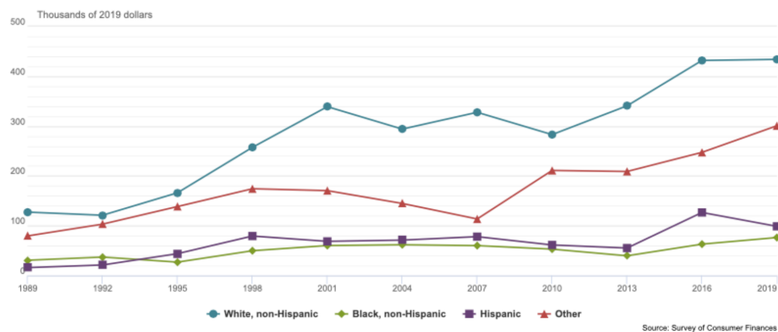


Stock holdings

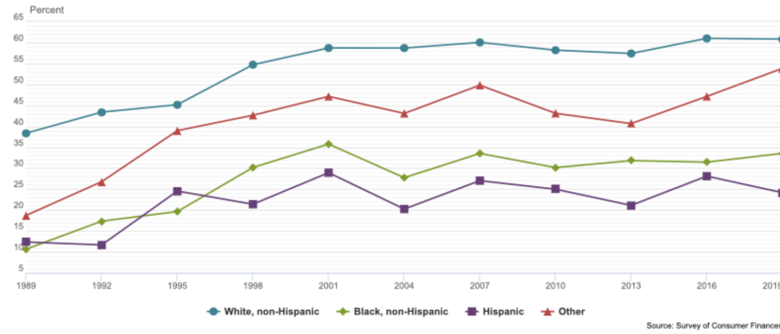
– The median stock holdings of white, non-Hispanic households in 2019 was 238 percent greater than that of black, non-Hispanic households. From 1989 to 2019, the median stock holdings of white, non-Hispanic households have been consistently greater and ranged from 98–490 percent greater. [“Survey of Consumer Finances, 1989–2019,” Board of Governors of the Federal Reserve System, *https://www.federalreserve.gov/econres/scf/dataviz/scf/chart/#series:Before_Tax_Income;demographic:racecl4;population:all;units:median.*]



– The mean stock holdings of white, non-Hispanic households in 2019 was 469 percent greater than that of black, non-Hispanic households. From 1989 to 2019, the mean stock holdings of white, non-Hispanic households have been consistently greater and ranged from 226–758 percent greater. [“Survey of Consumer Finances, 1989–2019,” Board of Governors of the Federal Reserve System, *https://www.federalreserve.gov/econres/scf/dataviz/scf/chart/#series:Before_Tax_Income;demographic:racecl4;population:all;units:median.*]

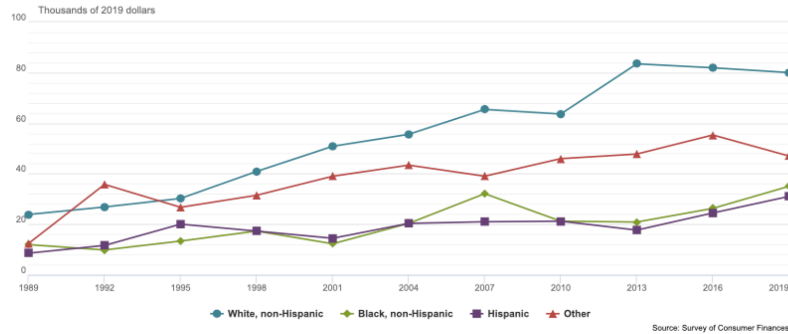


– Between 1989 and 2019, the percent of white, non-Hispanic households with stock holdings has been consistently larger than that of black, non-Hispanic households and has ranged from 23–31 percentage points greater. [“Survey of Consumer Finances, 1989–2019,” Board of Governors of the Federal Reserve System, *https://www.federalreserve.gov/econres/scf/dataviz/scf/chart/#series:Before_Tax_Income;demographic:racecl4;population:all;units:median.*]

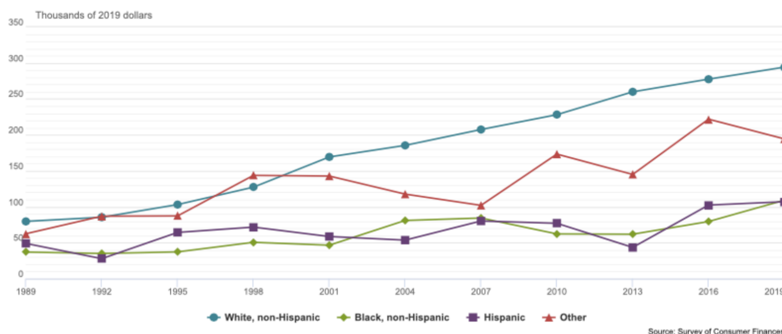


Retirement accounts

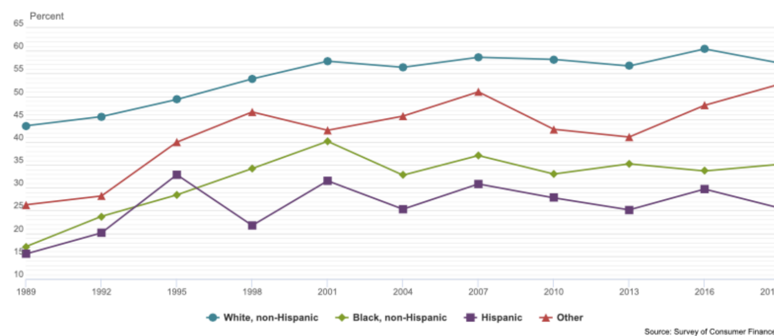
– From 1989–2019, median retirement accounts of white, non-Hispanic households are consistently greater than that of black, non-Hispanic households and range from 100–314 percent greater. ["Survey of Consumer Finances, 1989–2019," Board of Governors of the Federal Reserve System, *https://www.federalreserve.gov/econres/scf/dataviz/scf/chart/#series:Before_Tax_Income;demographic:racecl4;population:all;units:median.*]



– From 1989–2019, mean retirement accounts of white, non-Hispanic households are consistently greater than that of black, non-Hispanic households and range from 115–320 percent greater. ["Survey of Consumer Finances, 1989–2019," Board of Governors of the Federal Reserve System, *https://www.federalreserve.gov/econres/scf/dataviz/scf/chart/#series:Before_Tax_Income;demographic:racecl4;population:all;units:median.*]

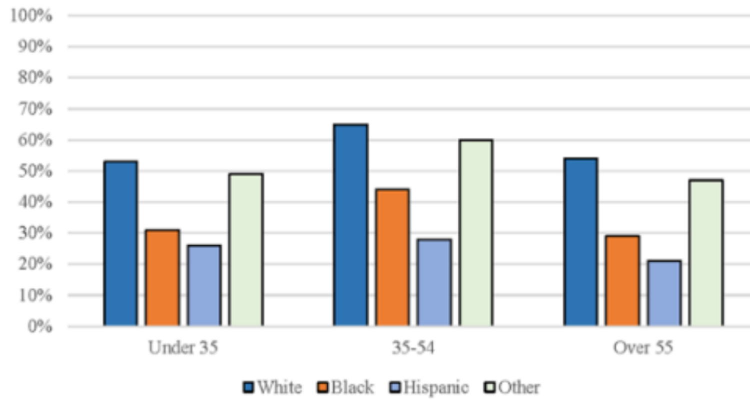


– Between 1989 and 2019, the percent of white, non-Hispanic households with retirement accounts has been consistently larger than that of black, non-Hispanic households and has ranged from 18–27 percentage points greater. ["Survey of Consumer Finances, 1989–2019," Board of Governors of the Federal Reserve System, *https://www.federalreserve.gov/econres/scf/dataviz/scf/chart/#series:Before_Tax_Income;demographic:racecl4;population:all;units:median.*]



– Across age ranges, retirement account ownership by white families is consistently at least 2 times that of black families. [Bhutta, Chang, Dettling and Hsu, "Disparities in Wealth by Race and Ethnicity in the 2019 Survey of Consumer Finances," Board of Governors of the Federal Reserve System, September 28, 2020, *https://www.federalreserve.gov/econres/notes/feds-notes/disparities-in-wealth-by-race-and-ethnicity-in-the-2019-survey-of-consumer-finances-20200928.htm.*]

Figure 4. Retirement account ownership peaks at middle age, though ownership is less likely for Black and Hispanic families at all ages.



Source: Federal Reserve Board, 2019 Survey of Consumer Finances.

Notes: Figure displays the percent of families that own a retirement account (IRA or DC plan) with a net positive balance by age group and by race and ethnicity. Race categories are displayed in order from left to right.

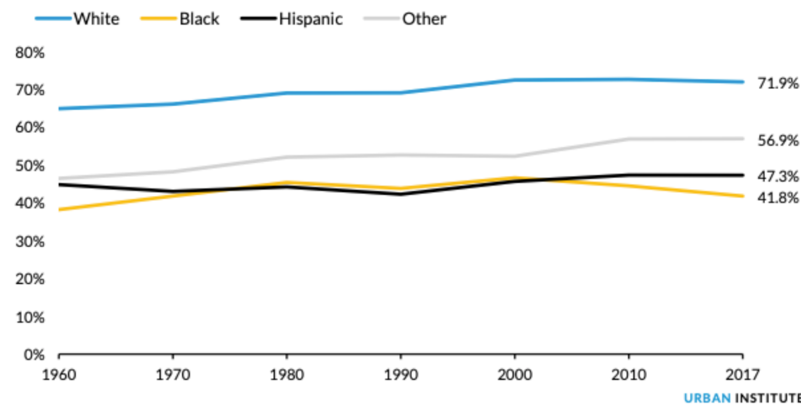
Accessible version

Home ownership

– From 1960–2017, home ownership for white Americans has been consistently greater than that of black Americans and was 72 percent greater in 2017. [Choi, McCargo, Neal, Goodman and Young, Explaining the Black-White Home Ownership Gap: A Closer Look at Disparities Across Local Markets (Washington, DC: Urban Institute, October 2019), *https://www.urban.org/sites/default/files/publication/101160/explaining_the_black-white_home ownership_gap_a_closer_look_at_disparities_across_local_markets_0.pdf.*]

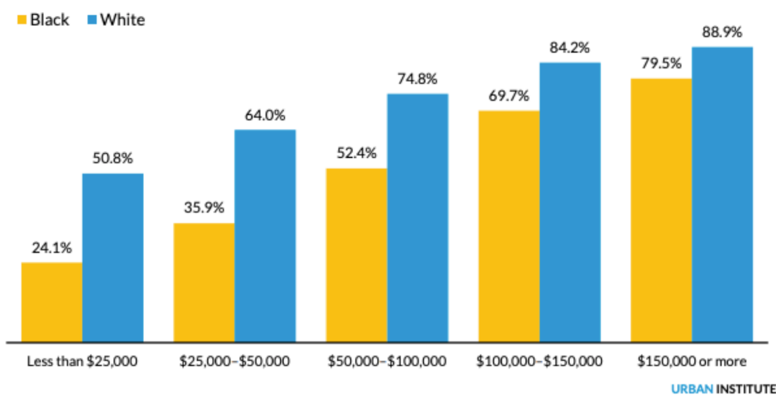
FIGURE 1

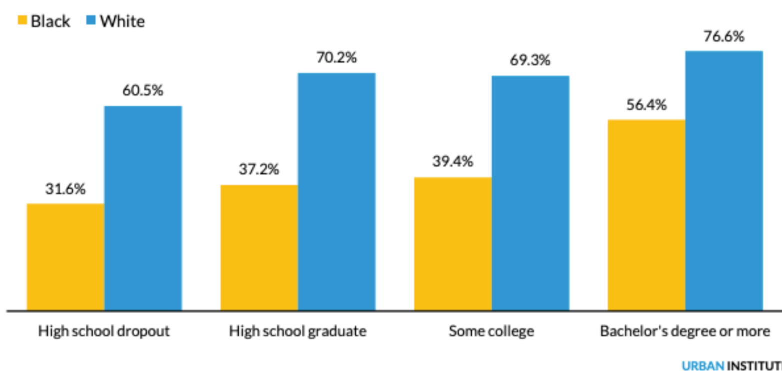
Homeownership by Race or Ethnicity

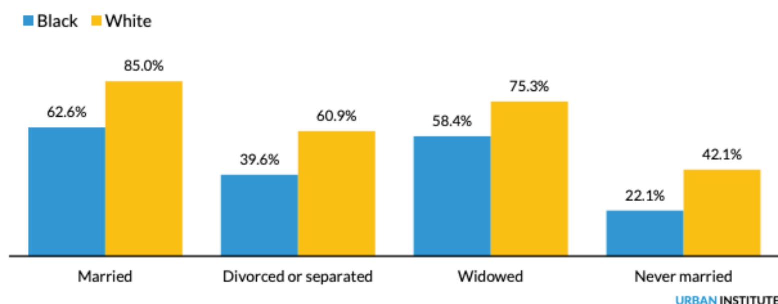


Sources: Decennial Census and the American Community Survey.

– Home ownership for black Americans is less than that of white Americans even when separately controlling for household income, educational attainment, and marital status. [Choi, McCargo, Neal, Goodman, and Young, *Explaining the Black-White Home Ownership Gap: A Closer Look at Disparities Across Local Markets* (Washington, DC: Urban Institute, October 2019), *https://www.urban.org/sites/default/files/publication/101160/explaining_the_black-white_homeownership_gap_a_closer_look_at_disparities_across_local_markets_0.pdf.*]

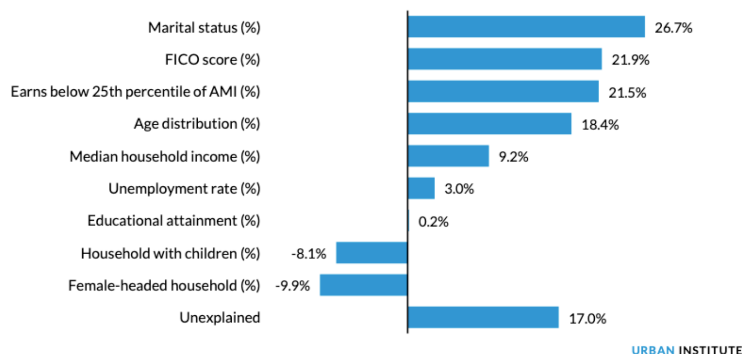






Source: 2017 American Community Survey.

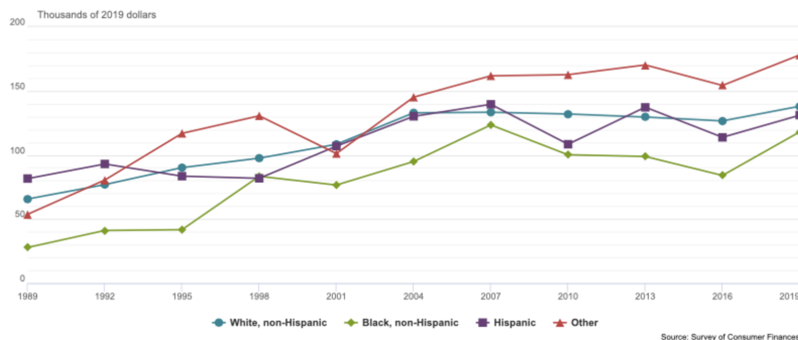
– "Marital composition, FICO score distribution, age, and income distribution explain the largest proportion of the black-white home ownership gap at the [Metropolitan Statistical Area] level. The results also show that about 17 percent of the home ownership gap remains unexplained." [Choi, McCargo, Neal, Goodman, and Young, *Explaining the Black-White Home Ownership Gap: A Closer Look at Disparities Across Local Markets* (Washington, DC: Urban Institute, October 2019), *https://www.urban.org/sites/default/files/publication/101160/explaining_the_black-white_homeownership_gap_a_closer_look_at_disparities_across_local_markets_0.pdf.*]



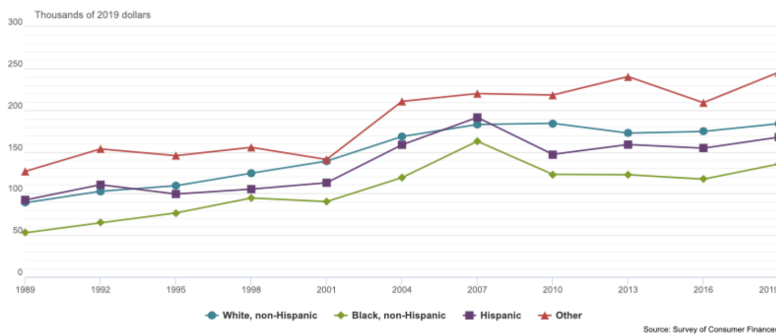
Sources: Decennial Census, the American Community Survey, Freddie Mac, and the Bureau of Economic Analysis.
Note: AMI = area median income.

Mortgages or home-equity loans

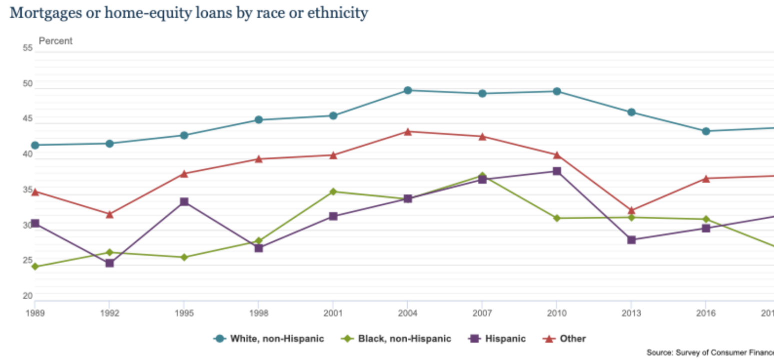
– From 1989–2019, median mortgages or home-equity loans of white, non-Hispanic households are consistently greater than that of black, non-Hispanic households and range from 8–136 percent greater ["Survey of Consumer Finances, 1989–2019," Board of Governors of the Federal Reserve System, *https://www.federalreserve.gov/econres/scf/dataviz/scf/chart/#series:Before_Tax_Income;demographic:racecl4;population:all;units:median.*]



– From 1989–2019, mean mortgages or home-equity loans of white, non-Hispanic households are consistently greater than that of black, non-Hispanic households and range from 12–68 percent greater ["Survey of Consumer Finances, 1989–2019," Board of Governors of the Federal Reserve System, *https://www.federalreserve.gov/econres/scf/dataviz/scf/chart/#series:Before_Tax_Income;demographic:racecl4;population:all;units:median.*]



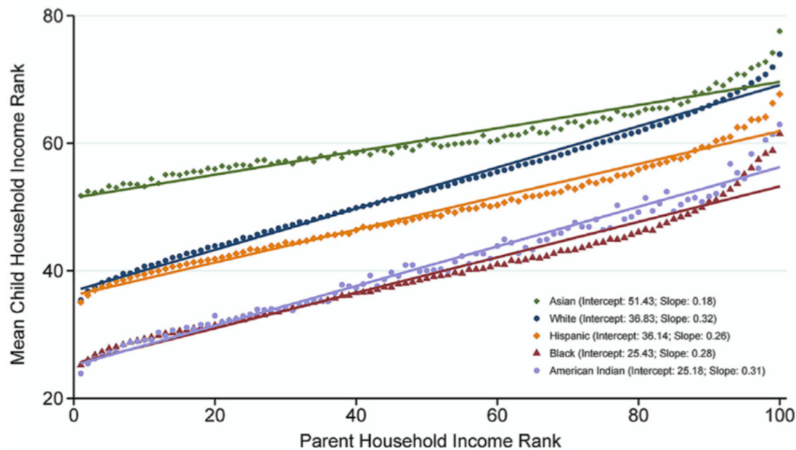
– Between 1989 and 2019, the percent of white, non-Hispanic households with mortgages or home-equity loans has been consistently larger than that of black, non-Hispanic households and has ranged from 11–18 percentage points greater. ["Survey of Consumer Finances, 1989–2019," Board of Governors of the Federal Reserve System, *https://www.federalreserve.gov/econres/scf/dataviz/scf/chart/#series:Before_Tax_Income;demographic:racecl4;population:all;units:median.*]



Intergenerational Mobility

Income mobility

– "Black Americans and American Indians have much lower rates of upward mobility and higher rates of downward mobility than whites, leading to persistent disparities across generations. . . . Both blacks and American Indians have rank-rank mobility curves that are shifted down relative to whites across the entire parental income distribution by approximately 13 percentiles. This remains true even among children born to parents in the top 1 percent, implying that children born into high-income black families have substantially higher rates of downward mobility than whites across generations . . . black child born to parents in the top quintile is roughly as likely to fall to the bottom family income quintile as he or she is to remain in the top quintile; in contrast, white children are nearly five times as likely to remain in the top quintile as they are to fall to the bottom quintile." [Chetty, Hendren, Jones, and Porter, "Race and Economic Opportunity in the United States: An Intergenerational Perspective," *The Quarterly Journal of Economics* 135, no. 2 (2020): 711–783.]



Wealth mobility

– White families have greater access to wealth from family members or friends than do black families: white families are almost three times more likely to

have received an inheritance; they are 2.85 times more likely to expect an inheritance; their median expected and actual inheritances are larger; and they are almost two times more likely to be able to get $3,000 from family or friends. [Bhutta, Chang, Dettling, and Hsu, "Disparities in Wealth by Race and Ethnicity in the 2019 Survey of Consumer Finances," Board of Governors of the Federal Reserve System, September 28, 2020, *https://www.federalreserve.gov/econres/notes/feds-notes/disparities-in-wealth-by-race-and-ethnicity-in-the-2019-survey-of-consumer-finances-20200928.htm.*]

Table 2: White families are substantially more likely to receive inheritances, gifts, and other family support than black and hispanic families.

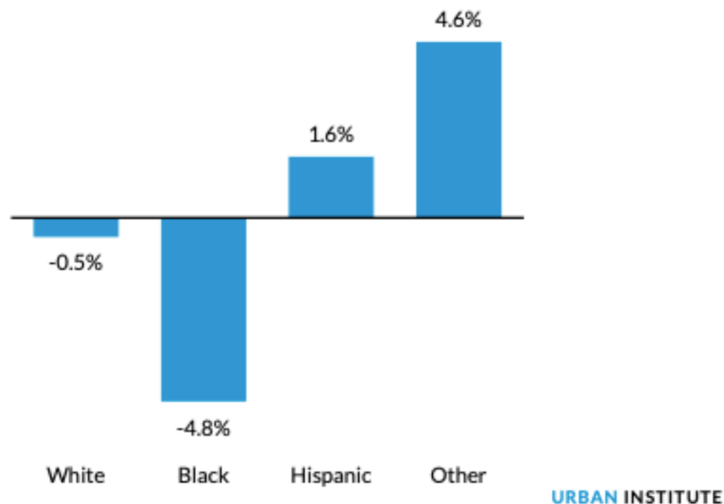
	White	Black	Hispanic	Other
Received an inheritance (percent)	29.9	10.1	7.2	17.8
Conditional median inheritance (thousands of 2019 dollars)	88.5	85.8	52.2	59.4
Expect an inheritance (percent)	17.1	6.0	4.2	14.7
Conditional median expected inheritance (thousands of 2019 dollars)	195.5	100.0	150.0	100.0
Could get $3,000 from family or friends (percent)	71.9	40.9	57.8	63.4
Parent(s) have a college degree (percent)	34.4	24.8	15.2	40.0

Source: Federal Reserve Board, 2019 Survey of Consumer Finances.

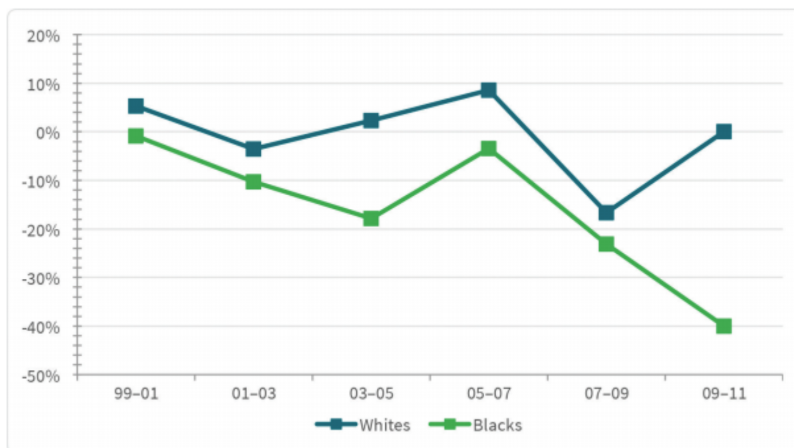
Note: Table displays inheritances and gifts received, expected inheritances, and other indicators of family support, by race and ethnicity, expressed in either percent or thousands of 2019 dollars. Parent(s) with a college degree refers to the parents of the reference person.

Disproportionate Impact of GFC

The home ownership rate for black Americans declined almost ten times as much as that of white Americans from 2000 to 2017. [Choi, McCargo, Neal, Goodman, and Young, *Explaining the Black-White Home Ownership Gap: A Closer Look at Disparities Across Local Markets* (Washington, DC: Urban Institute, October 2019), *https://www.urban.org/sites/default/files/publication/101160/explaining_the_black-white_homeownership_gap_a_closer_look_at_disparities_across_local_markets_0.pdf.*]

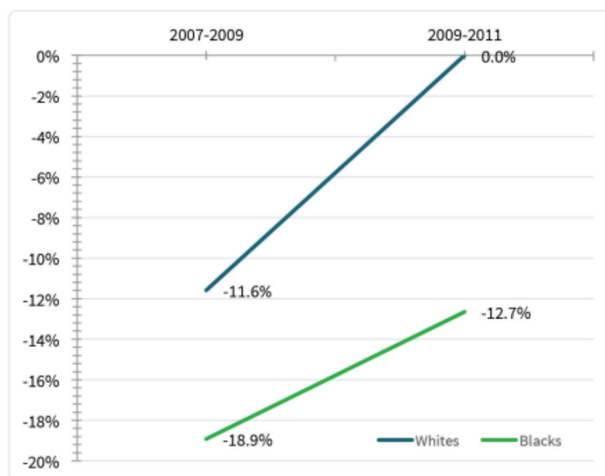


– "In the 2007 to 2009 period, wealth declined for both groups. White wealth excluding home equity dropped by 17 percent; blacks lost 23 percent of their wealth, not including the value of their homes. But starting in 2009, white wealth trends began an uptick, whereas blacks saw a 17-percentage-point further decline." [Burd-Sharps and Rasch, *Impact of the U.S. Housing Crisis on the Racial Wealth Gap Across Generations* (New York: Social Science Research Council, June 2015; New York: American Civil Liberties Union, June 2015), *https://www.aclu.org/sites/default/files/field_document/discrimlend_final.pdf.*]



– Household wealth including home equity: "while the typical white household experienced zero losses between 2009 and 2011 [] the typical black household continued to experience significant declines in wealth over the same period [, 12.7 percent]." [Burd-Sharps and Rasch, *Impact of the U.S. Housing Crisis on the Racial Wealth Gap Across Generations* (New York: Social Science Research Council, June 2015; New York: American Civil Liberties Union, June 2015), *https://www.aclu.org/sites/default/files/field_document/discrimlend_final.pdf.*]

FIGURE 4. PERCENTAGE CHANGE IN HOUSEHOLD WEALTH, INCLUDING HOME EQUITY, 2007–2011



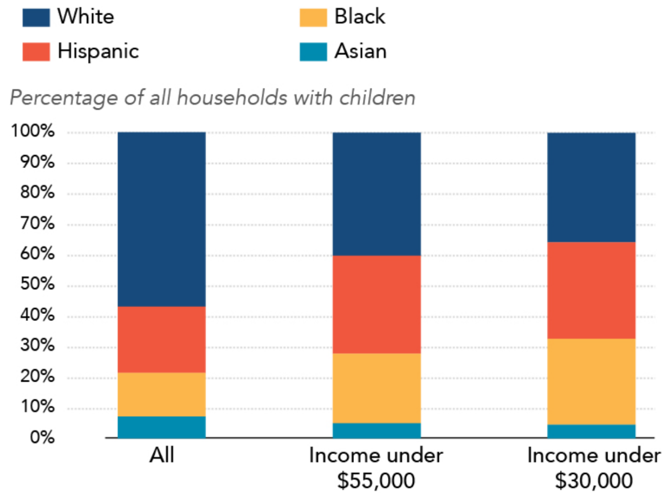
Appendix B

EITC

– Black families are overrepresented in the households with children with incomes under $55,000 as well as with incomes under $30,000. "In 2018, black households constituted 14 percent of all households with children, but 22 percent of those with income below $55,000 (around the maximum adjusted gross income to qualify for the EITC) . . . Overall, white households are the largest share of EITC recipients (because they constitute a majority of the working population), but women of color in particular are disproportionately likely to benefit from the credit." [Urban Institute, "Racial Disparities and the Income Tax System," *https://apps.urban.org/features/race-and-taxes/#earned-income-tax-credit.*]

Summary of Households with Children

By race or ethnicity, 2018



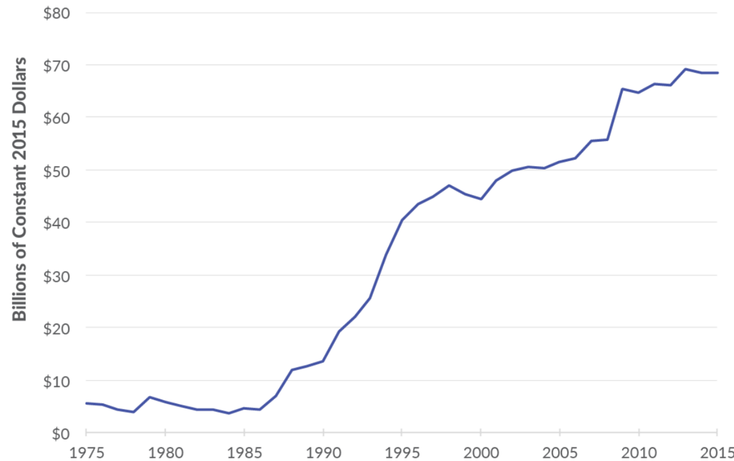
Source: US Census Bureau, Current Population Survey, 2019 Annual Social and Economic Supplement, Table HINC-04: Presence of Children Under 18-Year-Old-Households, by Total Money Income in 2018, September 2019.

Notes: According to the US Department of Health and Human Services, the 2019 federal poverty level for a five-person household in any of the 48 contiguous states and the District of Columbia is $30,170. According to the Internal Revenue Service, the earned income tax credit threshold for maximum adjusted gross income for joint filers with three qualifying children is $55,952 for 2019.

– "21 percent of black women receive the EITC, more than double the 9 percent share of white women who receive it. Women of color also tend to receive a larger average EITC than white women." The average EITC benefit for white, non-Latina women in 2018 was $1,600 whereas it was $2,200 for black, non-Latina women. [Marr and Huang, "Women of Color Especially Benefit From Working Family Tax Credits," Center on Budget and Policy Priorities, September 9, 2019, *https://www.cbpp.org/research/federal-tax/women-of-color-especially-benefit-from-working-family-tax-credits.*]

– Maggie R. Jones has estimated that the take-up rate for the EITC was greater for those who are black alone than for those who are white alone: 76.85 percent versus 78.29 percent in 2005 and 77.76 percent versus 81.91 percent in 2009. [Jones, "Changes in EITC Eligibility and Participation, 2005–2009," CARRA Working Paper Series #2014–04 (Washington, DC: Center for Administrative Records Research and Applications, July 11, 2014), *https://www.census.gov/content/dam/Census/library/working-papers/2014/adrm/carra-wp-2014-04.pdf.*]

– Spending on the EITC has been increasing over time. [Robert Bellafiore, "The Earned Income Tax Credit (EITC): A Primer," Tax Foundation, May 21, 2019, *https://taxfoundation.org/earned-income-tax-credit-eitc/*.]



Appendix C

DIFFERENTIAL TAX TREATMENT BASED ON RACE, ETHNICITY, OR GENDER

Australia

"Types of income." Australian Government: Australian Taxation Office, accessed April 2021. *https://www.ato.gov.au/General/Aboriginal-and-Torres-Strait-Islander-people/Tax-for-individuals/Your-income-and-deductions/Types-of-income/#:~:text=Aboriginal%20and%20Torres%20Strait%20Islander%20people%20and%20Indigenous%20holding%20entities,native%20title%20payments%20or%20benefits.*

– "Aboriginal and Torres Strait Islander people and Indigenous holding entities do not need to pay income tax or capital gains tax on native title payments or benefits."

"Receiving native title benefits—what it means for your tax obligations." Australian Government: Australian Taxation Office, accessed April 2021. *https://www.ato.gov.au/General/Aboriginal-and-Torres-Strait-Islander-people/In-detail/Receiving-native-title-benefits---what-it-means-for-your-tax-obligations/.*

– "On 28 June 2013, Parliament passed laws that affect you if you are an Aboriginal or Torres Strait Islander person or an Indigenous holding entity and you receive a native title benefit. The new law says certain payments or non-cash benefits you receive in relation to your native title rights are not subject to tax, including capital gains tax. These laws apply retrospectively to cover native title benefits received from July 1, 2008."
– "These changes mean that: native title benefits are now considered non-assessable non-exempt (NANE) income and are therefore not subject to income tax (however, income earned from investing a native title benefit is assessable as income); any capital gains or losses made from transferring native title rights to an Indigenous holding entity or Indigenous person are disregarded; any capital gains or losses made from surrendering or canceling native title rights are disregarded."

"What is native title?" Kimberly Land Council, accessed April 2021. *https://www.klc.org.au/what-is-native-title.*

– "Native title is the recognition that Aboriginal and Torres Strait Islander people have rights and interests to land and waters according to their traditional

law and customs as set out in Australian Law. Native Title is governed by the Native Title Act 1993 (Cth). Native title was introduced into law as a result of the historic Mabo decision in which the High Court ruled that Australia was not terra nullius—a land belonging to no-one—at the time of European colonisation. This decision recognised Aboriginal and Torres Strait Islanders as being Australia's first people and that their rights and interests in the land and waters continued to exist despite settlement. Native title may include rights and interests to: live on the area and erect shelters and structure; access the area for traditional purposes, like camping or for ceremonies; visit and protect important places and sites[,] hunt, fish and gather food or traditional resources like bush medicines, water, ochre and wood; teach law, custom and engage in cultural activities."

Canada

"Information on the tax exemption under section 87 of the Indian Act." Government of Canada, accessed April 2021. *https://www.canada.ca/en/revenue-agency/services/indigenous-peoples/information-indians.html.*

- "As an Indian, you are subject to the same tax rules as other Canadian residents unless your income is eligible for the tax exemption under section 87 of the Indian Act. That exemption applies to the income of an Indian that is earned on a reserve or that is considered to be earned on a reserve, as well as to goods bought on, or delivered to, a reserve."
- "If you have personal property—including income—situated on a reserve, that property is exempt from tax under section 87 of the Indian Act."

United States

"Frequently Asked Questions." U.S. Department of the Interior: Indian Affairs, accessed April 2021. *https://www.bia.gov/frequently-asked-questions.*

- "Do American Indians and Alaska Natives pay taxes? Yes. They pay the same taxes as other citizens with the following exceptions: Federal income taxes are not levied on income from trust lands held for them by the U.S.; State income taxes are not paid on income earned on a Federal Indian reservation; State sales taxes are not paid by Indians on transactions made on a Federal Indian reservation; Local property taxes are not paid on reservation or trust land."

"ITG FAQ #4 Answer—What are the tax implications of being a federally recognized tribe?" IRS, accessed April 2021. *https://www.irs.gov/government-entities/indian-tribal-governments/itg-faq-4-answer-what-are-the-tax-implications-of-being-a-federally-recognized-tribe.*

- "Federally recognized tribes are sovereign legal entities, similar to State governments. They have all the rights and attributes of a sovereign entity such as a State. They have a constitutionally guaranteed status as sovereign entities. They are not subject to tax based on this. Federally recognized tribal governments are a unique set of entities in the United States in this respect. Revenue Ruling 67–284 states that an Indian tribe, as an income producing entity, is not subject to income taxation. However, income earned, if not otherwise exempt from income taxation, would be included in the gross income of the Indian tribal member when distributed or constructively received by the tribal member. Examples of income that aren't taxable to Indian tribal members include payments made under certain general welfare programs and payments exempt under the Per Capita Act."

India

"What are the income tax exemptions and other monetary benefits available to women?" The Economic Times, last updated March 4, 2021. *https://economictimes.indiatimes.com/wealth/tax/what-are-the-income-tax-exemptions-and-other-monetary-benefits-available-to-women/articleshow/74666372.cms.*

- "Up until Financial Year (FY) 2011–12, women and men had different income tax slabs with women having to pay slightly less tax. However, from FY 2012–13, this was done away with and tax slabs for men and women were made the same. Therefore, currently there are no income tax exemptions specifically for women."

Chakraborty, Pinaki, Chakraborty, Lekha, Karmakar, Krishanu, and Shashi M. Kapila. "Gender equality and taxation in India: An unequal burden?" In *Taxation and Gender Equity: A comparative analysis of direct and indirect taxes in developing and developed countries,* edited by Caren Grown and Imraan Valodia. London: Routledge, 2010.

– “In 2008–09, the income tax threshold was increased from Rs. 110,000 (U.S.$2,733, based on an exchange rate of 40.24 Rs. = 1 U.S.($) to Rs. 150,000 and from Rs. 145,000 to Rs. 180,000 for women income earners. For both males and females over 65, it is even higher, at Rs. 225,000. It is important to note that India is one of the few countries, and the only one in this volume, where the tax system provides such positive discrimination for women. Until 2001, the tax rates on individuals, both men and women, were the same. In 2001, women were given a special rebate up to Rs. 5,000 against taxes payable, unless they were above 65, in which case they received the senior citizen rebate of Rs. 20,000. In 2005, the minimum non-taxable income was raised to Rs. 125,000 for women taxpayers as against the general threshold of Rs. 100,000. In 2005, the tax exemption limit for women was raised to Rs. 1,35,000, while the Rs. 5,000 tax rebate was discontinued and in 2007, this limit was raised to Rs. 1,45,000.”
– “Although the Indian tax system positively discriminates by gender due to the higher tax threshold for women, the effectiveness of such a policy is limited as the number of women within the income tax net is a minuscule proportion of the total number of income taxpayers and an even more minuscule proportion of the total number of adult women in India. Currently, the total number of individual taxpayers is about 27 million out of a total population of about 1 billion, so approximately 2.7 per cent of the population falls within the income tax net. . . . Women likely constitute less than 3 percent of this small number. . . . In other words, the use of income tax as a means to further gender equality seems limited.”

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Prepared Statement of Shay Hawkins, Co-Founder and President, Opportunity Funds Association

INTRODUCTION

Chairman Wyden, Ranking Member Crapo, and members of the committee, it is a pleasure to be with you today. This will be my third time testifying before Congress, but my first time testifying before the Senate, so thank you for having me. I am the co-founder and president of the Opportunity Funds Association (OFA), a trade association whose members are entrepreneurs, investors, developers and fund managers operating in Opportunity Zones. Through our members, we connect capital to overlooked areas including Frontline Communities, improving lives, creating opportunities, and ensuring long-term economic growth.

This morning, I would like to share a few success stories from Opportunity Zones, discuss ways to build wealth through expanded retirement saving, remind the committee of the ways Tax Reform made the tax code more equal, and finally suggest policies to get investment capital to minority entrepreneurs.

Prior to co-funding OFA, I served as Tax Counsel to Senator Tim Scott (R–SC) where I helped champion the Investing in Opportunity Act, legislation authored by Senators Tim Scott and Cory Booker (D–NJ) that became Opportunity Zones. Research from the accounting firm Novogradac shows that over $15 billion has been raised for investment so far with over $3 billion of that being raised in the midst of a pandemic. An August report from the Council of Economic Advisors estimates that Opportunity Zones will lift 1 million Americans from poverty and reduce poverty in designated zones by 11 percent.

BUILDING WEALTH THROUGH DIVERSE PROJECTS AND DIVERSE LEADERS

Quinn Palomino was born in Vietnam right at the end of the Vietnam War. She grew up at the refugee camps that the U.S. set up at Fort Chaffee in Arkansas. Today, Quinn leads Virtua Partners, a global private equity firm that was active in social impact prior to Opportunity Zones, but has raised $100 million across four Opportunity Funds to build a combination of commercial real estate and affordable housing nationwide.

I'm proud to say that in my hometown of Cleveland, OH, the minority- and veteran-owned Bridgeport Group is raising capital from Opportunity Fund investors to expand its supply chain logistics business to serve Cleveland's world class healthcare market. The venture will expand to provide prescription and OTC drug fulfillment services for local retailers to cost effectively compete with disruptive online

pharmaceutical providers. Bridgeport's founder Andre Bryant is an active entrepreneur who makes it a point to support other minority entrepreneurs.

Two weeks ago in Panama City, FL, Jorge Gonzalez, CEO of St. Joe Company broke ground on a waterfront hotel and stand-alone restaurant on Panama City Marina. The parcel is city-owned and will be leased to St. Joe, providing immediate revenue to residents. The terms provide for an increase in lease payments as the hotel's revenues grow over time. The project will create 150 direct jobs for current residents and rebuild a portion of Panama City that was completely destroyed during Hurricane Michael.

Alex Bhathal, managing partner of RevOZ, a leading real estate investment firm specializing in Opportunity Zones, will cut the ribbon on an 11,325 square-foot office project. The facility will house San Bernardino County's Children's Department of Behavioral Health (DBH), providing mental wellness care to some of the most vulnerable and underserved members of the community. The facility's location allows for synergy between the County's collective community resources, such as the San Bernardino County Office, San Bernardino Department of Health, San Bernardino County Public Defender, San Bernardino County Juvenile Court, and local schools.

BUILDING WEALTH THROUGH RETIREMENT SAVINGS

According to Federal Reserve data, the bottom 50 percent of American families hold less than 2 percent of total U.S. wealth and have a median retirement savings balance of $0. Fixing this requires policies specifically targeted to the tens of millions of lower-income workers for whom a tax deduction provides little meaningful support.

During my time as Tax Counsel for Senator Scott, I was proud to advise him as he and this committee developed the bipartisan SECURE Act. The bill was the largest retirement reform to impact the economy in more than a decade, made it easier to save for retirement, andmade retirement plans more accessible to more people.

Another promising way to address this challenge was outlined in a recent paper from the Economic Innovation Group by a bipartisan pair of economists, Teresa Ghilarducci and Kevin Hassett. The authors propose a new program modeled after the highly successful Federal Thrift Savings Plan (TSP) that would be aimed specifically at helping lower-income workers build wealth and retirement security. As a former Senate staffer who, like every member of this committee, has benefited firsthand from the TSP, I believe this proposal deserves careful consideration. It is precisely the kind of idea that could fill the gaps in current policy and ensure that all workers are rewarded for hard work and diligent savings. If properly designed, such a program could help narrow the racial wealth gap.

CONGRESS SHOULD DO NO HARM

It is critical that we build on previous efforts to make the income tax code more simple, fair, and focused on helping the American people. The Tax Cuts and Jobs Act:

- **Placed a cap on the State and Local Tax Deduction**
  - We should not reverse course and lift the cap on SALT.
  - Representative Alexandria Ocasio-Cortez recently called SALT "A Gift to Billionaires."
    - I can't say that I agree with the Representative often, but in *this* case the math is on her side.
  - Lifting the cap on the SALT deduction would be a huge give away to the rich.
  - Even with the cap in place, around three-quarters of the benefit goes to families in the top fifth of the income distribution.
  - According to the Brookings Institution, if the cap is lifted, almost all (96 percent) of the benefits of SALT cap repeal would go to the top quintile (giving an average tax cut of $2,640); 57 percent would benefit the top 1 percent (a cut of $33,100); and 25 percent would benefit the top 0.1 percent (for an average tax cut of nearly $145,000).
  - Uncapping SALT is a nonstarter for those concerned with income inequality in the tax code.
- **Doubled the Standard Deduction**
  - TCJA increased the standard deduction from $6,500 to $12,000 for single filers and $13,000 to $24,000 for taxpayers who are married filing jointly.
  - Millions of households will no longer need to go itemizing their deductions.

    - The Joint Committee on Taxation estimates that about 88 percent of the 150 million households that file taxes will take the increased standard deduction.

- **Doubled the Child Tax Credit**
    - Taxpayers can claim a maximum credit of $2,000 for each child, with a portion of the credit refundable.
    - If the credit is greater than the taxpayer's liability, they can receive a refund up to $1,400 based on an earned income formula.
    - The CTC, in combination with other refundable tax credits, is explicitly designed to benefit low-income families with workers and children and can significantly boost incomes and lift families above the poverty line, according to the Congressional Research Service (CRS).
    - CRS estimates that TCJA's Federal income tax rate changes reduced total poverty by 15 percent.
        - Nearly all of the poverty reduction from the income tax changes were experienced by families that have both workers and children.
- **Limited the Home Mortgage Interest Deduction (HMID)**
    - The benefits of the HMID go primarily to high-income taxpayers because high-income taxpayers tend to itemize more often, and the value of the HMID increases with the price of a home.
    - According to the Tax Foundation, in 2018, less than 4 percent of taxpayers earning less than $50,000 will claim HMID, and these taxpayers will receive less than 1 percent of the overall benefits.
    - Taxpayers making over $200,000 will make up 34 percent of claims and take 60 percent of the benefits.

WHAT CONGRESS SHOULD DO TO HELP

Keep the Playing Field Level for Entrepreneurs

More than 90 percent of small businesses are organized as pass-throughs (sole proprietorships, LLCs, partnerships, or S corporations), not as corporations. This percentage is even higher for minority owned businesses. Because of TCJA, pass-through business owners can now claim a 20 percent deduction on their share of the business's income. The deduction is scheduled to sunset in 2026, Repealing this sunset, as suggested in Senator Daines' legislation, will benefit millions of pass-through businesses and help level the playing field between small and large businesses.

Democratize Opportunity Zone Investment

Opportunity Zones allow for a permanent exclusion from taxable income of capital gains from the sale or exchange of an investment in an Opportunity Fund if the investment is held for at least 10 years. This benefit should be allowed for any capital invested and held in an Opportunity Fund for at least 10 years, not just capital gains. By allowing non-capital gains to be invested in Opportunity Zones, we can democratize the community development tool and allow investors at every level of wealth and income to participate. The change will also increase the overall amount of capital available to entrepreneurs building businesses in Opportunity Zones.

Empower CDFIs

Congress should also consider allowing Community Development Finance Institutions (CDFIs) to receive equity investments as Opportunity Zone Businesses. CDFIs are already active as business and project lenders in distressed communities and have a deep understanding of a community's needs, strengths and weaknesses. Allowing CDFIs to take in equity capital from Opportunity Zone investors and then lend this capital out to entrepreneurs in on a larger scale would money in minority hands and minority communities.

Make Opportunity Zones Transparent

Perhaps the most important step Congress can take to optimize sustainable growth in Opportunity Zones is to pass a bill adding reporting and transparency requirements to the policy. Senator Tim Scott along with Senators Sinema, and Grassley introduced a bipartisan bill to this end last Congress. The bill would enable Treasury to collect key information on the location of Opportunity Zone investments, the types of businesses and projects attracting investment, and the number of jobs created. This information will enable Congress to adjust the policy to further incentivize investment in areas remaining underserved, and will demonstrate the viability of the policy as a community development tool.

Extend the Opportunity Zones Policy

Congress should finally consider extending this great policy. Investment in Opportunity Zones was first undermined by untimely regulations, and further hindered by the global pandemic. Extending the policy to account for the time and momentum lost would go far in bringing capital into distressed communities for benefit of existing residents.

QUESTIONS SUBMITTED FOR THE RECORD TO SHAY HAWKINS

QUESTIONS SUBMITTED BY MIKE CRAPO

Question. You have been working extensively with Opportunity Zone projects. Do you believe that it was important that there was bipartisan support in building up the legislation leading to the Opportunity Zone provisions that ended up in the Tax Cuts and Jobs Act?

Answer. Yes. It was absolutely critical that there was bipartisan support for Opportunity Zones (44 House Democrats, 44 House Republicans, 7 Senate Democrats, 7 Senate Republicans). We have also seen bipartisan legislation passed to expand Opportunity Zones use in Puerto Rico to support the Territory in its economic recovery from hurricane damage. The IMPACT Act which would add critical transparency and reporting requirements to Opportunity Zones was introduced last Congress with bipartisan sponsors.

Question. Your fellow panelist Professor Brown has recommended that the Federal Government improve measurement and gathering and use of data on race and ethnicity. The focus is to better understand any interplay between provisions of the tax system and racial, ethnic, and gender identifications.

Related to the Opportunity Zones provisions of the tax code, there has been bipartisan legislation called the IMPACT Act. That Act promotes reporting and measurement for opportunity funds, investors, and possibly Opportunity Zone projects themselves.

I have four questions related to the IMPACT Act and Opportunity Zones.

First, can you discuss what your understanding is of the bipartisan IMPACT Act, and what you think are its objectives?

Second, with respect to that act, how important is it in terms of measuring the impact of Opportunity Zones?

Third, will a failure to pass the IMPACT Act inhibit Congress's ability to fine-tune the provision?

Fourth, in your experience with Opportunity Zones projects, what have been your observations on whether or how the projects have increased employment and business opportunities for minorities?

Answer. The IMPACT Act was introduced by Senator Tim Scott and co-sponsored with Senator Krysten Sinema and former chair of the finance committee Chuck Grassley. The bill and acronym is about Improving and reinstating the Monitoring, Prevention, Accountability, Certification, and Transparency of the Opportunity Zones provision.

The IMPACT Act codifies certain reporting requirements for Opportunity Funds (the investment vehicle for opportunity zones), requirements such as the total assets they have held in the fund, the location, the value of Opportunity Zones property held by the fund, whether the property is owned or leased, the location and industry classification of operating businesses, equity investment, and the number of persons the fund expects to be employed to the various investments that they're making.

The legislation also codifies requirements of what information that investors will see from the fund's managers. Information requirements could include relevant dates on which investment positions are made, descriptions of the various Opportunity Zones investments, and other measures that will allow IRS to track the deferral and recognition of gain.

The IMPACT Act also adds some penalties for funds that fail to report in a timely and accurate manner.

A second set of requirements are for the Treasury Department, which will be required to do an economic impact analysis that will measure several domestic and

economic factors to determine the impact of the Opportunity Zones provision. The Treasury Department will look at:

- The total number of funds.
- The total assets of all funds.
- The distribution of Opportunity Zones investments across their financial industry classification.
- The percentage of Opportunity Zones that have received investment through the incentive.
- The amount of Opportunity Fund investments made in each census tract and the ratio of real property investments to the operating businesses.

Over time, the information will be available to compare the effectiveness of the Opportunity Zones fund investments, compared to those that are not; so a failure to pass the IMPACT Act will absolutely inhibit Congress's ability to fine tune the provision.

Opportunity Zones projects have increased minority employment and business opportunities. An example can be found in my home town of Cleveland OH. Minority and veteran-owned Bridgeport Group is raising capital from Opportunity Fund investors to expand its supply chain logistics business to serve Cleveland's world-class health-care market. The venture will expand to provide prescription and OTC drug fulfillment services for local retailers to cost effectively compete with disruptive online pharmaceutical providers. Bridgeport's founder Andre Bryant is an active entrepreneur who makes it a point to support other minority entrepreneurs.

If Congress passes the IMPACT Act we will have more complete information about the effectiveness of opportunity zones in creating business opportunities for minorities.

Question. The Tax Cuts and Jobs Act did a number of things to simplify and increase progressivity of the personal income tax system, including: doubling of the standard deduction; expanding the Child Tax Credit; expanding the alternative minimum tax exemption; enacting Opportunity Zones incentives; capping the SALT deduction; capping the mortgage-interest deduction; and limiting the exclusion for employer-provided fringe benefits.

Do you agree with the Joint Committee on Taxation analysis showing that TCJA made the individual side of the income tax code more progressive, and do you think that any of the list of provisions I just identified, including the cap on the SALT deduction, should be rolled back?

Answer. I absolutely agree with the Joint Committee on Taxation analysis showing that TCJA made the individual side of the income tax code more progressive. I do not think that any of the provisions identified above should be rolled back. In particular the cap on the SALT deduction should not be removed. Even with the cap in place, around three-quarters of the benefit goes to families in the top fifth of the income distribution. According to the Brookings Institution, if the cap is lifted Almost all (96 percent) of the benefits of SALT cap repeal would go to the top quintile (giving an average tax cut of $2,640); 57 percent would benefit the top one percent (a cut of $33,100); and 25 percent would benefit the top 0.1 percent (for an average tax cut of nearly $145,000).

Question. You have had extensive experience with Opportunity Zones and funds, including being able to observe the manner in which the capital they provide positively impacts low-income communities.

Could you please share any examples that come to mind when you reflect on the positive impact that opportunity zone capital has on the community that it comes into?

Could you please share any examples that come to mind when you reflect on the positive impact that such capital has on entrepreneurs and business owners located in and around opportunity zones?

Are opportunity zones an effective way of increasing capital in disadvantaged areas? What changes, if any, could be made to the provisions to enhance their effectiveness in this regard?

Answer. Quinn Palomino was born in Vietnam right at the end of the Vietnam War. She grew up at the refugee camps that the U.S. set up at Fort Chaffee in Arkansas. Today, Quinn leads Virtua Partners, a global private-equity firm that was

active in social impact prior to Opportunity Zones, but has raised $100 million across four Opportunity Funds to build a combination of commercial real estate and affordable housing nationwide.

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Alex Bhathal, managing partner of RevOZ, a leading real estate investment firm specializing in Opportunity Zones, will cut the ribbon on an 11,325 square-foot office project. The facility will house San Bernardino County's Children's Department of Behavioral Health (DBH), providing mental wellness care to some of the most vulnerable and underserved members of the community. The facility's location allows for synergy between the County's collective community resources, such as the San Bernardino County Office, San Bernardino Department of Health, San Bernardino County Public Defender, San Bernardino County Juvenile Court, and local schools.

Opportunity Zones are an effective way of increasing capital in disadvantaged areas. The Council of Economic Advisors estimates that over 1 million Americans will be lifted out of poverty because of the policy.

WHAT CONGRESS SHOULD DO TO HELP

Democratize Opportunity Zones Investment

Opportunity Zones allow for a permanent exclusion from taxable income of capital gains from the sale or exchange of an investment in an Opportunity Fund if the investment is held for at least 10 years. This benefit should be allowed for any capital invested and held in an Opportunity Fund for at least 10 years, not just capital gains. By allowing non-capital gains to be invested in Opportunity Zones, we can democratize the community development tool and allow investors at every level of wealth and income to participate. The change will also increase the overall amount of capital available to entrepreneurs building businesses in Opportunity Zones.

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Congress should also consider allowing Community Development Finance Institutions (CDFIs) to receive equity investments as Opportunity Zones Businesses. CDFIs are already active as business and project lenders in distressed communities and have a deep understanding of a community's needs, strengths, and weaknesses. Allowing CDFIs to take in equity capital from Opportunity Zones investors and then lend this capital out to entrepreneurs on a larger scale would put money in minority hands and minority communities.

Make Opportunity Zones Transparent

Perhaps the most important step Congress can take to optimize sustainable growth in Opportunity Zones is to pass a bill adding reporting and transparency requirements to the policy. Senator Tim Scott, along with Senators Sinema and Grassley, introduced a bipartisan bill to this end last Congress. The bill would enable Treasury to collect key information on the location of Opportunity Zones investments, the types of businesses and projects attracting investment, and the number of jobs created. This information will enable Congress to adjust the policy to further incentivize investment in areas remaining underserved, and will demonstrate the viability of the policy as a community development tool.

Extend the Opportunity Zones Policy

Congress should finally consider extending this great policy. Investment in Opportunity Zones was first undermined by untimely regulations, and further hindered by the global pandemic. Extending the policy to account for the time and momentum lost would go far in bringing capital into distressed communities for benefit of existing residents.

Question. When it comes to addressing underlying disparities through effective policy choices, a number of potential solutions have been offered. In your mind, what are some of the most effective ones that Congress should be considering, and please include consideration of any interplay between your suggested solution and the Federal budget?

Answer. Congress should prioritize policies that enable work and wage growth including regulatory reform and policies that grow small businesses and make U.S. corporations more globally competitive. Congress should also emphasize policies that empower Americans to be more self-sufficient. Finally, Congress must consider the fact that any policy to reduce poverty will fail without a social foundation of better parents and strong marriages.

Question. What changes will be most impactful in terms of addressing the racial, gender, and ethnic wealth gaps? Is the tax code the preferred vehicle for seeking to address such disparities?

Answer. Because families with little or negative wealth also have little taxable income, the tax code is probably not the best vehicle for addressing racial gender and ethnic wealth gaps. To the extent Congress looks to the tax code, it should focus on policies such as the Secure Act that increases the ability to save for lower-income Americans.

Another promising way to address this challenge was outlined in a recent paper from the Economic Innovation Group by a bipartisan pair of economists, Teresa Ghilarducci and Kevin Hassett. The authors propose a new program modeled after the highly successful Federal Thrift Savings Plan (TSP) that would be aimed specifically at helping lower-income workers build wealth and retirement security. As a former Senate staffer who, like every member of this committee, has benefitted first-hand from the TSP, I believe this proposal deserves careful consideration. It is precisely the kind of idea that could fill the gaps in current policy and ensure that all workers are rewarded for hard work and diligent savings. If properly designed, such a program could help narrow the racial wealth gap.

QUESTIONS SUBMITTED BY HON. TODD YOUNG

Question. Before the onset of the pandemic, the U.S. economy was delivering record gains for working Americans. The red-hot economic growth arising from the 2017 passage of the Tax Cuts and Jobs Act, along with the smarter regulation during the Trump administration, provided opportunity for all Americans. Prior to the pandemic, we saw: (i) the lowest overall unemployment rate in more than 50 years; (ii) record low unemployment rates for black and Hispanic workers; and (iii) solid wage growth, with stronger growth for low-wage workers than for upper earners. These are just a few of the many economic successes we saw following the 2017 tax cuts.

While the Nation continues to rebuild from the pandemic, do you believe it is wise to undo the reforms that provided for the record gains seen in 2018 and 2019?

Answer. I do not believe it is wise to undo the reforms that provides for the record gains seen in 2019 and 2019,

Question. I would like to follow up on your hearing testimony and your extensive experience with Opportunity Zones and funds, particularly having observed the manner in which the capital they provide positively impacts low-income communities.

Could you please share an example or two you have observed of the positive impact that Opportunity Zones capital has on the communities in which it is invested?

Answer. In Panama City, FL, Jorge Gonzalez, CEO of St. Joe Company, broke ground on a waterfront hotel and stand-alone restaurant on Panama City Marina. The parcel is city-owned and will be leased to St. Joe, providing immediate revenue to residents. The terms provide for an increase in lease payments as the hotel's revenues grow over time. The project will create 150 direct jobs for current residents and rebuild a portion of Panama City that was completely destroyed during Hurricane Michael.

Alex Bhathal, managing partner of RevOZ, a leading real estate investment firm specializing in Opportunity Zones, will cut the ribbon on an 11,325 square-foot office project. The facility will house San Bernardino County's Children's Department of Behavioral Health (DBH), providing mental wellness care to some of the most vulnerable and underserved members of the community. The facility's location allows for synergy between the County's collective community resources, such as the San Bernardino County Office, San Bernardino Department of Health, San Bernardino County Public Defender, San Bernardino County Juvenile Court, and local schools.

Question. I understand there was bipartisan support in building up the legislation leading to the Opportunity Zones provisions that ended up in the Tax Cuts and Jobs

Act. Do you believe this bipartisan support was important to the successful enactment and implementation of the program?

Answer. Yes. It was absolutely critical that there was bipartisan support for Opportunity Zones (44 House Democrats, 44 House Republicans, 7 Senate Democrats, 7 Senate Republicans). We have also seen bipartisan legislation passed to expand Opportunity Zones use in Puerto Rico to support the Territory in its economic recovery from hurricane damage. The IMPACT Act which would add critical transparency and reporting requirements to Opportunity Zones was introduced last Congress with bipartisan sponsors.

PREPARED STATEMENT OF HIMALAYA RAO-POTLAPALLY, MANAGING DIRECTOR, BLACK FOUNDERS MATTER FUND

Chairman Wyden, Ranking Member Crapo, and members of the committee, thank you for the opportunity to appear before you today.

My name is Himalaya Rao-Potlapally, and I am the managing director of the Black Founders Matter Fund, an early-stage venture capital firm that operates out of Portland, OR and invests in black entrepreneurs that are leading startups across several verticals within the United States.

You will probably notice that I don't represent the face of venture capital. On the surface, there are very few women in this space, and even fewer women of color. I am also a first-generation immigrant to this country, and I started my career as a school social worker in the Bronx in New York City working in high-risk schools with children and families.

When I got my MBA, I was exposed to what entrepreneurship is and who could be an entrepreneur. Learning that it didn't have to be someone with several Ph.D.s or with generational wealth, my wife and I decided to try it for ourselves and started a company. I only started seeking out resources and knowledge about venture capital selfishly to understand how I would be judged if I ever raised capital. I fell into this world by accident, but as soon as I did, I realized the very specific need for me to be here.

There is a huge lack of representation when it comes to the investor makeup. Even when there are people of color or women in the space, most of them have come from generational wealth and a higher socioeconomic status. This inherently creates a space in which we have homogeneous thinking. To combat what I was seeing, I positioned my career in this space to first start as a venture capital consultant. I went into firms who had the willingness to diversify their dealflow but had seen no tangible differences in outcomes. In just 1 year of me being with several of these firms, I was able to significantly change their investment portfolio. As I analyzed why this was happening, I realized that even when there is a willingness to diversify deaflow, there are significant barriers that create unchanged outcomes. I cite three main reasons for this inequity: the underlying framework for evaluating potential startups, the homogeneous groupthink mentality, and the lack of an on ramp to truly representative investors.

BARRIERS TO INVESTING IN DIVERSITY AND INNOVATION

1. The underlying framework for evaluating potential startups is based on pattern matching and a dataset of previous success attained by one demographic of founders.

The basis of evaluating startups is inherently biased. When investors look at startups, they are essentially evaluating companies compared to what already exists in the market and their own portfolio. We compare them to existing ventures as a way to determine their viability and propensity for success based on what we know already works. This pattern matching behavior [1] causes investors to look at startups and notice incremental improvements in the business model, team dynamics, or go-to-market strategy. While all three of those areas are fundamental to creating great ventures, exclusively looking at those factors creates a scenario where investors are missing a key element to an innovative venture. The word innovation is defined as the introduction of something new, whether it be a new idea, method, or device.[2] One of its synonyms is novelty.

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[1] Sparks, A. (2021). *Raising Venture Capital* (1.12 ed.). San Francisco, CA: Holloway.

[2] Innovation. (n.d.). Retrieved from *https://www.merriam-webster.com/dictionary/innovation.*

The solutions we think of to problems are based on our framework of reality. Our reality is based on our subjective lived experiences that confirm or challenge what we already know.[3] When the experience or fact confirms what we already know, it strengthens that reality and locks it into place. A challenge to our existing reality, presents our mind with the opportunity to rationalize how the example is an outlier that should not to be considered, or establishes the example as part of a new pattern that requires us to rethink our logic framework. The result is that we all take in a series of objective experiences and facts and then internally process them through our own subjective view of reality, to come up with what is true and what is possible.

When we bring that back to venture capital, founders' reality and perceived notions of possibilities creates their varying approach to solving any small or systemic problem. BIPOC founders inherently experience the world and reality in a different way and therefore have a different set of norms and solutions they come up with. In our pattern matching evaluation framework, truly different ideas are impossible to compare. The result is that we evaluate all deals based on our historical dataset which is overwhelmingly composed of solutions presented by white founders. Because of their drastically different lived experiences, BIPOC founders largely present ideas that are incomparable to this existing dataset and are therefore overlooked; not because there is an overt want to exclude people based on their race or ethnicity, but because our existing methodology of success is essentially based on an algorithm that only takes its inputs from one group of lived experiences and potential solutions.[1]

Innovation implicitly requires difference. But how can we ever filter or look for it when all our systems are designed to compare new ideas to existing benchmarks and metrics?

2. We create homogenous groupthink in environments without the four types of diversity.

On top of an underlying biased framework, we have the problem of homogenous thinking. When we look at angel groups, venture capital funds, or private equity—there is a stark lack of diversity with regards to gender and racial equity. While demographic diversity (based on age, gender, ethnicity, and race) is foundational to creating representation, we run this risk of creating environments that have superficial diversity when we miss the intersectionality of age, gender, race, and ethnicity with concurring factors. A truly diverse environment consists of three other types of diversity in addition to demographic diversity.

It requires information diversity.[4] To achieve this, we need to look at sources that people are using to gather information. Is everyone looking at the same articles, publications, and datasets as a method of aggregating knowledge and creating a starting point? If so, all the inputs are identical and reinforce one another. This creates an environment where we are only surrounded by information that confirms what we already know and solidifies what we see as reality and possibilities.

We also need value diversity.[5] This relates to the core values and beliefs that people hold and use to navigate the world. This can be especially difficult in our current polarized society where we see things are being right and wrong instead of opinions that range on a spectrum informed by our contrasting and sometimes contradicting realities.

Finally, we need education diversity.[6] We need to ask if all the people in any given room have the same level and type of formal or informal education. If so, we've all been indoctrinated with the same information and knowledge and are more likely to participate in a homogeneous thought process. The type of edu-

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[3] Confirmation bias. (n.d.). Retrieved from *https://www.britannica.com/science/confirmation-bias.*

[4] Phillips, K.W., Duguid, M., Thomas-Hunt, M., and Uparna, J. (2013). "Diversity as Knowledge Exchange: The Roles of Information Processing, Expertise, and Status." *Oxford Handbooks Online. doi:10.1093/oxfordhb/9780199736355.013.0009.*

[5] Tran, B. (2016). "A History of How U.S. Academics, Laws, and Business Have Created the Current Approach to Organizational Diversity: Visual, Innovative, and All-Inclusive Multiculturalism." In Prescott, J. (Eds.), *Handbook of Research on Race, Gender, and the Fight for Equality* (pp. 380–397). IGI Global. *http://doi:10.4018/978-1-5225-0047-6.ch017.*

[6] Moore-Berg, S.L., and Karpinski, A. (2018). "An intersectional approach to understanding how race and social class affect intergroup processes." *Social and Personality Psychology Compass,* 13(1). *doi:10.1111/spc3.12426.*

cation a person receives is also highly correlated with socioeconomic status and education diversity is one the most consistent types of diversities that is overlooked. Across the spectrum, from non-profit boards to government positions, to corporate leadership, we tend to see a lack of intersectionality between racial, educational, and socioeconomic diversity present in our leadership.

Without these four types of diversities present, we engage in and encourage superficial diversity that enables tokenization rather than impact-driven, sustainable change. We should instead strive to create environments where different perspectives are intentionally centered and heard.

3. There is currently a lack of an on ramp to greater participation by representative investors into small businesses and new ventures.

If we can agree that we need these four types of diversities present in any given environment, then the last major barrier to investment in innovation is the lack of an on ramp to truly representative investors. To be a participant and decision-maker in venture capital, you must be an accredited investor. As defined by the SEC,[7] an accredited investor is an individual that makes $200,000 in annual income, $300,000 if a combined couple income, or has $1,000,000 in net assets, excluding the primary residence. This definition alone excludes the majority of Americans from ever being able to participate as investors in venture capital. In the last couple of years, the accredited investor definition has expanded to include those who work within venture capital or have intimate knowledge of the inherent risks that come with venture investing.[8] While this was a great expansion, it's only the beginning. We need continued modifications to this definition as well as intentional initiatives, like tax incentives, to help drive participation into this historically closed loop activity. We all come with our own set of inherent biases and subjective realities. Creating environments where investors and founders are truly representative of one another is a way to mitigate confirmation bias that we use to evaluate success. These initiatives, like the one Senator Wyden has proposed,[9] incentivize greater participation by different types of investors. When we are constructing initiatives, we must exercise caution to ensure that we are creating a catalytic environment that encourages participation of new and diverse investors into a broad range of diverse entrepreneurs and businesses.

KEY RECOMMENDATIONS

Based on the previous discussion of barriers to investment in diverse entrepreneurs and innovation, the following constitute the starting points for effective change.

- Investor education that goes against the existing pattern matching behavior and instead upholds a holistic education framework that examines a person's unique experience and its contribution to metrics of a successful venture. The Black Founders Matter Fund has one such framework developed on the basis of Effectual Entrepreneurship[10] overlaid with a social work framework of Systems Theory.[11]
- Incentive structures, including tax credits, student loan forgiveness, and stipends/vouchers, as a method of incentivizing non-monetary participation in leadership structures by diverse individuals. As an example, non-profit boards are usually comprised of individuals who have flexible work schedules, those who are retired, and those who have enough passive or generational wealth to allow flexibility to commit to a non-paid position. Creating structures that allow for stipends and/or vouchers that can be used for living expenses/health and wellness expenses can open doors for a broader range of individuals to participate in leadership and community development. Tax incentives and student loan forgiveness would also contribute to the long-term flattening of

[7] Accredited Investors. (n.d.). Retrieved from *https://www.investor.gov/introduction-investing/investing-basics/glossary/accredited-investors.*

[8] Amendments to Accredited Investor Definition. (2020, December 7). Retrieved from *https://www.sec.gov/corpfin/amendments-accredited-investor-definition-secg.*

[9] Wyden Introduces Bill to Boost Capital Access for Women-Owned Business: The United States Senate Committee on Finance. (2019, October 30). Retrieved from *https://www.finance.senate.gov/ranking-members-news/wyden-introduces-bill-to-boost-capital-access-for-women-owned-business.*

[10] Read, S., Sarasvathy, S., Drew, N., Wiltbank, R., and AOhlsson, A. (2011). *Effectual Entrepreneurship*. Routledge.

[11] Systems Theory. (n.d.). Retrieved from *https://www.sciencedirect.com/topics/psychology/systems-theory.*

the wealth disparity in exchange for the inclusion of diverse voices in setting organizational strategies and solutions.

- Expansion of the accredited investor definition to allow greater participation by the majority of American citizens.
- Incentive programs, including tax credits and student loan credits, that accelerate and encourage participation of investment into new ventures and small businesses. Special consideration should be given to ensure that the resulting investment goes into a broad range of businesses and individuals to ensure diverse distribution of dollars.

CONCLUSION

Creating environments that truly incentivize and encourage participation from a diverse set of individuals might seem difficult to achieve. But the lack of this environment and exclusively investing in one type of solution or founder creates ripple effects throughout our society. Here in the United States, we pride ourselves on being the global leader of progress and innovation. We must therefore look to solve this complex problem with a variety of different solutions to ensure that we can continue to remain competitive in the global landscape. This country is home to different cultures, identities, and ideologies. We need to find a way to harness the strength of our differences and diversity for a brighter, inclusive, and innovative future.

Thank you again for the opportunity to testify, and I look forward to your questions.

QUESTION SUBMITTED FOR THE RECORD TO HIMALAYA RAO-POTLAPALLY

QUESTION SUBMITTED BY HON. MAGGIE HASSAN

Question. Given the barriers that women, minority, and rural entrepreneurs face in accessing capital, many have difficulty hiring their first few employees. A tax credit to support initial hiring would help these entrepreneurs start up their businesses. That's why I've joined Chairman Wyden's bill to support women and minority entrepreneurs, and why I worked on a bipartisan basis to secure a tax credit for new businesses hires in the American Rescue Plan.

How do barriers to accessing capital affect the ability of women and minority entrepreneurs to hire and retain employees?

Answer. Women and minority entrepreneurs have an exceptionally difficult time when it comes to the race for talent. I was recently connecting with a female entrepreneur as she reflected on her journey to finding a co-founder. Although she had revenue and could demonstrate market validation, investors wouldn't capitalize her company until she had a co-founder to create more stability in the executive team. The issue is that the women and BIPOC individuals historically suffer from systematic wealth disparities. Therefore, there are less women and BIPOC individuals and families available that can afford to work without any salary now with the promise of equity and returns later. Lack of funding continues to be the number one reason why startups lose the ability to hire and retain top talent in their ventures. It is therefore critical that we create pathways for companies led by women and BIPOC leaders to get funded, so that they can participate in the startup talent race. Hiring their first few employees and executive team can mean the difference between a startup that scales and one that fails.

Across the board, there is undercapitalization when it comes to women and BIPOC-led ventures. The bill you proposed with Chairman Wyden not only creates a tax credit that benefits these small businesses when they hire their first employees, but also helps to create incentives for investors to fund small businesses run by women and BIPOC entrepreneurs. As stated above, an ability for companies to get funded gives them the tools and resources to hire strong talent to scale quickly and solidify their differentiation moat.

PREPARED STATEMENT OF HON. RON WYDEN,
A U.S. SENATOR FROM OREGON

This morning the Finance Committee will examine issues of racial justice and tax code inequality in America. Nobody of good conscience wants there to be a race-based penalty or a discount on taxes. Everybody ought to pay a fair share, and everybody ought to have a fair chance to get ahead. In practice, the U.S. tax code does not always work that way.

If America's busted old tax code truly excels at anything, it's rewarding those who are fortunate enough to already have wealth. The lucky few with the top incomes can go years deferring their taxes, paying what they want and when they want. On the other hand, there's no deferral for a black nurse who pays taxes out of every paycheck or a Latina small business owner who pays taxes quarterly.

According to a recent survey, a typical white American family has eight times the wealth of a typical black American family. Some of the cornerstone tax policies in America include well-intentioned tax incentives for home ownership, education, and retirement savings. Those incentives only really work for people who can afford to buy homes and set money aside for education and retirement. Those people are much likelier to be white.

The committee will hear a lot more examples like those today illustrating how the tax code adds to inequality in this country. The fact is, some recent changes have made the situation worse. An estimated 80 percent of the individual benefits of the Trump tax law went to white Americans. Even the benefits that went only to the top 1 percent of taxpayers were skewed the same way.

The American Rescue Plan enacted in March begins to change the math of racial injustice and tax code inequality. It expanded the Earned Income Tax Credit for millions of working people. It expanded the Child Tax Credit and makes sure millions more working families will receive the full amount available. Too often, families and individual workers with lower incomes, particularly black and Latino, haven't had access to those full benefits.

Those expansions are going to be game changers for those workers and families in Oregon and all across the country. They ought to be permanent, and I'm working with members of this committee to make that happen.

Inequality isn't just about race, it's also about gender. Women business owners, particularly women of color, are underrepresented, under-capitalized and under-appreciated. The share of business revenues that go to women-owned businesses hasn't budged in 20 years. It's stuck at 4 percent. Along with Senator Cortez Masto and Senator Hassan, Senator Cardin and I are introducing the PROGRESS Act that will help to increase that figure. Our bill is all about promoting investment in women- and minority-owned businesses and helping them grow and hire more workers.

Finally, policy-makers need better, confidential data on how tax laws affect Americans of different races. Other Federal agencies collect that type of demographic information and policy-makers can use it to improve them. The IRS does not.

The fact is, the tax code isn't strictly about government funding. Congress decided long ago to use the tax code to tackle major economic and social challenges. The words black or white or Asian or Latino or Native American don't have to appear anywhere in the code for tax laws to affect those groups differently. Too often, those differences are adding to inequality.

The IRS needs to meet a higher standard of confidentiality due to its history and the sensitive nature of taxpayer information. That said, it makes no sense to blind lawmakers to the key data that would illuminate injustice in our tax laws. It's time for more tax data transparency. This committee is going to make sure that happens in a manner that fully protects the privacy and confidentiality of American taxpayer information.

I'm looking forward to discussing all those issues and more today. There's a lot for us to cover in this hearing. I want to thank our witness panel for joining us.

COMMUNICATIONS

LETTER SUBMITTED BY VANIA K. BAKER

U.S. Senate
Committee on Finance

I am a U.S. American citizen who lives outside the United States. To be clear: I am an individual. I am not a corporation. I am not a multinational. I did not move from the United States to avoid paying U.S. taxes. But, by moving from the United States, I am automatically subject to the U.S. Extraterritorial tax regime—a regime that imposes more punitive taxation and reporting on Americans living abroad—than is imposed on American residents. This is because the Internal Revenue Code treats all things foreign to the United States punitively.

I moved from the United States because of work and family. In fact, I am a full tax resident in the country where I live. But, because I actually live and work in the EU, I am required to pay taxes and assume responsibility for my financial and retirement planning here, where I live. My income, financial and retirement assets are foreign to the United States, but are local to me. Because my income and financial assets, although local to me, are foreign to the United States, I am subject to the U.S. Extraterritorial tax regime. As such, I am subject to constant stress and fear of penalties should I make mistakes in complying with the Internal Revenue Code. Furthermore, I find it very difficult to find competent professional help. The help I can find is very expensive (often costing more than $500 a year).

I know that you will find it difficult to relate to this. However, because and only because, I live outside the United States, my difficulties include the following:

- Difficulty in maintaining bank/financial accounts where I live:
  - FATCA has provided incentives for banks in my country to refuse to deal with U.S. citizens.
- Punitive Taxation on non-U.S. mutual funds.
- Being able to participate in non-U.S. pensions and still get the benefits of tax deferral available to my neighbors.
- Taxation on the sale of my principal residence which is not taxed in the country where I live.
- Difficulty in carrying on a business. It is normal for people in my country to carry on business through small business corporations—which are taxed punitively by the IRS (GILTI).
- Having the retirement savings in my corporation effectively confiscated by the 965 Transition Tax.
- Being subject to income based on phantom capital gains. (Because I am required to live my life tethered to the U.S. dollar, fluctuations in the exchange rate can result in unexpected fake income).

To be clear, I am and will always be a U.S. American. However, I find it very difficult to maintain compliance with both the U.S. Internal Revenue Code and the tax code of my country of residence. Because of this dual tax obligation, I am finding it very difficult to save and invest for retirement. What one country gives, the other country takes. The necessity of complying with both tax regimes means that I get the worst of each tax regime. As a result, I feel that I am being forced to consider whether it is possible to retain my U.S. citizenship. No U.S. American should be forced to choose between his cherished U.S. citizenship and the need to engage in responsible financial/retirement planning.

It is terribly unfair that, because I live outside the United States, I am forced to choose between my responsibilities to plan for retirement and my responsibilities under the Internal Revenue Code. Why should I be subject to additional requirements that resident U.S. Americans are not? I am not living in the United States nor using services in the United States. I have even been denied a COVID–19 vaccine from the U.S. Government (because I don't live in the United States) while being required to pay taxes to the United States!

The U.S. Extraterritorial tax system is terribly unfair.

A great American writer, the late Pat Conroy, began his book "The Prince of Tides" with the following words: "My wound is geography. It is also my anchorage, my port of call."

Although, my U.S. citizenship is my anchorage and my port of call, the unfair U.S. extraterritorial tax regime—triggered by my geography—is most definitely my wound.

Please fix this extreme injustice!

LETTER SUBMITTED BY AMY BALCERAK

U.S. Senate
Committee on Finance

I am a proud American citizen who lives outside the United States. To be clear: I am an individual. I am not a corporation. I am not a multinational. I did not move from the United States to avoid paying U.S. taxes. But, by moving from the United States, I am automatically subject to the U.S. Extraterritorial tax regime—a regime that imposes more punitive taxation and reporting on Americans living abroad—than is imposed on American residents. This is because the Internal Revenue Code treats all things foreign to the United States punitively.

I moved from the United States because my husband got a job opportunity to move us to Switzerland, and we were looking for a new adventure! In fact, I am a full tax resident the country where I live. But, because I actually live and work in Switzerland, I am required to pay taxes and assume responsibility for my financial and retirement planning here, where I live. My income, financial and retirement assets are foreign to the United States, but are local to me. Because my income and financial assets, although local to me, are foreign to the United States I am subject to the U.S. Extraterritorial tax regime. As such, I am subject to constant stress and fear of penalties should I make mistakes in complying with the Internal Revenue Code. Furthermore, I find it very difficult to find competent professional help. The help I can find is very expensive, costing around $1,300 a year.

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difficult to save and invest for retirement. What one country gives, the other country takes. The necessity of complying with both tax regimes means that I get the worst of each tax regime. As a result, I feel that I am being forced to consider whether it is possible to retain my U.S. citizenship. No proud American should be forced to choose between his cherished U.S. citizenship and the need to engage in responsible financial/retirement planning.

It is terribly unfair, that because I live outside the United States, that I am forced to choose between my responsibilities to plan for retirement and my responsibilities under the Internal Revenue Code. Why should I be subject to additional requirements that resident Americans are not? I am not living in the United States and using services in the United States. I have even been denied a COVID–19 vaccine from the U.S. Government (because I don't live in the United States) while being required to pay taxes to the United States!

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Please fix this extreme injustice!

STATEMENT OF PROFESSOR CAROLINE BRUCKNER, PROFESSORIAL LECTURER, ACCOUNTING AND TAXATION MANAGING DIRECTOR, KOGOD TAX POLICY CENTER, KOGOD SCHOOL OF BUSINESS, AMERICAN UNIVERSITY

Chair Wyden, Ranking Member Crapo, Committee Members and Staff, thank you for holding the full committee hearing on April 20, 2021, titled, "Combating Inequality: The Tax Code and Racial, Ethnic, and Gender Disparities." My name is Caroline Bruckner and I am a tax professor on the faculty at American University's Kogod School of Business. I also serve as the Managing Director of the Kogod Tax Policy Center (KTPC), which conducts non-partisan policy research on tax and compliance issues specific to small businesses and entrepreneurs. Our mission is to develop and analyze research and policy recommendations for tax-related problems faced by small businesses, and to promote public dialogue concerning tax issues critical to small businesses and entrepreneurs. In connection with my appointment as Managing Director of the KTPC in 2015, I have focused our research agenda, in part, on the tax and financing challenges facing women business owners, who are overwhelmingly small businesses.

In June 2017, the KTPC released ground-breaking research on women business owners and small business tax expenditures, *Billion Dollar Blind Spot: How the U.S. Tax Code's Small Business Expenditures Impact Women Business Owners (BDBS),* which built on my prior experience as Chief Counsel to the U.S. Senate Committee on Small Business and Entrepreneurship. That research included survey data from experienced women-owned firms and focused on four small business tax expenditures (*i.e.,* Section 1202—*100% Exclusion from Capital Gains Tax for Investments in Qualified Small Business Stock;* Section 1244—*Ordinary Loss Treatment for Investments in Small Business Stock;* Section 179—*Expensing for Small Businesses;* and Section 195—*Deduction for Qualified Start-Up Costs*). We found:

1. While the number of women-owned firms has increased at extraordinary rates in recent decades, the majority of these firms remain predominately small businesses operating in service industries and still encounter substantial challenges with growing their receipts and accessing capital;
2. Our survey data showed that when women-owned firms can take advantage of tax expenditures, they do (see, *e.g.,* Section 195). However, least some of the U.S. tax code's small business tax expenditures targeted to stimulating small firm investment either explicitly exclude service firms by design (*e.g.,* Section 1202), and by extension, the majority of women-owned firms, or operatively bypass them in favor of firms that are incorporated (*e.g.,* Section 1244) or operating in industries that tend to make more regular capital-intensive investments (*e.g.,* Section 179);
3. There is a critical (and long-overdue) need to develop tax data and research to measure the effectiveness of small business expenditures with respect to women-owned firms; and

4. The lack of demographic data and tax research on U.S. tax code's small business tax expenditure with respect to women business owners constitutes a billion-dollar blind spot in U.S. tax policy.

Throughout 2017's tax reform debate, I submitted multiple statements for the record to the Congressional tax-writing committees and testified before the U.S. House of Representatives Committee on Small Business on this research and the need to specifically consider the tax challenges and data gaps identified in *BDBS.*[1] However, at no point during the tax reform debate did Congress meaningfully and specifically consider whether money spent on tax expenditures targeted to small businesses would be effective in addressing the access to capital challenges faced by most women business owners.[2]

In fact, subsequent research on the witnesses that testified before the Congressional tax-writing committees shows that women business owners were repeatedly overlooked and under-represented as witnesses during tax reform hearings.[3] For example, in 2017, the tax-writing committees held a total of 12 hearings on tax reform and less than 19% of the witnesses testifying at these hearings were women. In fact, women were witnesses in only 7 hearings and no women business owner testified at the sole SFC hearing on business tax reform.µ More broadly, analysis of witnesses testifying before the tax-writing committees from 2007 through 2017 at tax reform hearings found that 44% of the SFC tax reform hearings had no women as witnesses, while 46% of W&M tax reform hearings failed to include any women.[4]

Overall, women comprised only a small fraction (17.5%) of the total 462 witnesses called to testify at the 91 tax reform hearings the tax-writing committees held from 2007 through 2017, and the data used to develop this witness testimony research does not (yet) include the race or ethnicity of witnesses. At the same time, by 2017, women business owners had grown to comprise almost 40% of all U.S. businesses and research showed that women of color were responsible for much of the overall growth.[5] The systemic representation inequity before the tax-writing committees is particularly problematic given SFC alone "has the largest committee jurisdiction in

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[1] The testimony and submissions included links to and excerpts from *BDBS,* which detailed the legislative history and Congress's intent to provide access to capital and opportunities for growth to small businesses with respect to four specific tax expenditures. *See e.g., Small Business Tax Reform: Modernizing the Code for the Nation's Job Creators: Hearing Before the U.S. House Committee on Small Business,* 115th Congress (testimony of Caroline Bruckner) (October 2017), *https://www.govinfo.gov/content/pkg/CHRG-115hhrg27040/html/CHRG-115hhrg27040.htm;* Caroline Bruckner (July 27, 2017), *Statement for the Record to the U.S. House of Representatives Committee on Ways and Means Tax Policy Subcommittee in Connection With July 13 Hearing, "How Tax Reform Will Help America's Small Businesses Grow and Create New Jobs.";* Bruckner, Caroline (July 14, 2017), *Submission to the U.S. Senate Finance Committee in Response to the Chair's Request for Recommendations for Tax Reform* (on file with author); Caroline Bruckner, *Statement for the Record to the U.S. Senate Committee on Small Business and Entrepreneurship in Connection With the June 14 Hearing Titled, "Tax Reform and Barriers to Small Business Growth,"* (June 28, 2017).

[2] Bruckner, Caroline (2020). "Doubling Down on a Billion Dollar Blind Spot: Women Business Owners and Tax Reform." *American University Business Law Review,* Vol. 9, Issue 1.

[3] In 2019, together with Karen O'Connor, the Jonathan N. Helfat Distinguished Professor of Political Science, Department of Government, School of Public Affairs at American University, I developed the Congressional Record Representation Dataset [hereinafter CRRD], which is the first-of-its kind digital diversity and inclusion legislative tool in the U.S. designed to track the number of women and people of color testifying before congressional committees to measure diversity and inclusion of congressional witnesses. The CRRD is comprised of witnesses testifying at congressional legislative, oversight or investigative hearing identified using published committee end-of-congress (EOC) reports and hearing transcripts. The CRRD excludes witnesses at confirmation hearings or mark-ups. The CRRD has been created by human-based processing of publicly available EOC Reports, which congressional committees are required to prepare and file at the end of each Congress. EOC Reports document a committee's legislative activities during a Congress and identify witnesses that testified at hearings. Preliminary results for the gender of witnesses before U.S. Senate Committee on Finance (SFC) and the U.S. House of Representatives Committee on Ways and Means (W&M) from the CRRD for the 110th–112th Congresses announced in January 2020. Bruckner, Caroline, Karen O'Connor and Dakota Strode, "A Seat at the Table: Just How Representative Is the Legislative Process? An Analysis of the Gender Distribution of Witnesses Before a Select Group of Committees in the U.S. Congress." Southern Political Science Association Annual Meeting, San Juan, Puerto Rico, available at: *https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3543554.*

[4] Bruckner, *supra* n. 2 at 19.

[5] Bruckner, *supra* n. 2, at 9 (citing research finding that firms owned by women of color grew at a rate of 43 percent over the last five years—double the rate of all new women-owned firms).

either chamber of Congress, oversees more than 50 percent of the federal budget and has jurisdiction over tax, trade and healthcare policy."[6]

The absence of consideration of women business owners as part of the tax reform legislative process reflects an effort by Congress to double down on the billion-dollar blind spot it has when it comes to tax expenditures and women business owners. Specifically, as part of the final tax reform legislation Congress passed in 2017, Congress included hundreds of billions of dollars in funding for targeted small business tax expenditures that my research suggests are less favorable to women business owners.[7]

Although some women business owners had some tax savings as a result of the tax reform legislation, data from Congressional tax experts raises new questions on the equity of the distribution of the revenue of some tax expenditures funded by the legislation. For example, in 2018, the Joint Committee on Taxation (JCT) released data on the distribution of the revenue loss triggered by the Section 199A deduction created for individuals with business income that indicated more than 90% of the revenue loss would "flow to firms with income of more than $100,000 in 2018 and 2024."[8] In other words, the majority of revenue Congress spent in funding Section 199A flowed to firms other than the majority of women business owners (88%) who have revenues of less than $100,000 and who struggle to access capital.[9]

The most recent 2021 JCT estimates suggest that more than 21 million taxpayers will claim a Section 199A deduction that will cost taxpayers $186 billion in 2021 alone.[10] Given that tax expenditures "are similar to direct spending programs that function as entitlements to those who meet the established statutory criteria,"[11] the tax-writing committees have an oversight responsibility to taxpayers to determine what businesses are benefiting from these business tax programs. My research suggests that combatting inequality in the U.S. tax code requires greater oversight of business tax expenditures and should include consideration of the legislative process and who is testifying before the tax-writing committees as part of that process.

Conclusion

With the economic devastation triggered by the COVID–19 pandemic and its impact on working women, Congress has repeatedly demonstrated a willingness to respond to small businesses owners in distress. The CARES Act and the American Rescue Plan included several tax provisions targeted to help businesses survive despite challenging economic conditions. The SFC is to be commended for recognizing the inequities that exist in the U.S. tax code and its administration by holding this hearing. In addition, Chair Wyden's recent introduction, together with Senators. Cardin, Hassan and Cortez Masto, of the Providing Real Opportunities for Growth to Rising Entrepreneurs for Sustained Success (PROGRESS) Act demonstrates critical leadership and willingness to use tax expenditures to tackle existing inequities, including those faced by women- and minority-owned firms looking to secure capital to grow their businesses. But there is more work to do. Moving forward, the SFC should:

1. Hold hearings to consider the impact of U.S. tax code's business tax expenditures on women- and minority-owned small businesses;
2. Task the U.S. Government Accountability Office with preparing a report detailing recommendations on how Congress can coordinate with the U.S. Department of Treasury, IRS, the U.S. Small Business Administration and JCT to develop the demographic data needed to prepare an assessment of the distribution of existing tax business expenditures with respect to women-owned and minority-owned firms. The report's recommendations should include discussions of and recommendations on protecting taxpayer privacy data;

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[6] Press Release, U.S. Senate Committee on Finance (Nov. 9, 2017), available at: *https://www.finance.senate.gov/imo/media/doc/11.9.17%20Committee%20History.pdf.*

[7] Bruckner, *supra* n. 2, at 26–27.

[8] *Id.* at 26 (referring to data from Joint Committee on Taxation, JCX–32R–18, Tables Related to the Federal Tax System in Effect 2017–2026 (2018)).

[9] Testimony Before the U.S. House of Representatives Committee on Budget in connection with a hearing titled, "2017 Tax Law—Impact on the Budget and American Families." (February 27, 2019), available at: *https://budget.house.gov/sites/democrats.budget.house.gov/files/documents/02.27.2019.Bruckner_%20Testimony.pdf.*

[10] Joint Committee on Taxation, JCX–18–21, Overview of the Federal Tax System as in Effect For 2021 (2021), available at: *https://www.jct.gov/publications/2021/jcx-18-21/*.

[11] Joint Committee on Taxation, JCX–23–30, Estimates of Federal Tax Expenditures for Fiscal Years 2020–2024 (2020), available at: *https://www.jct.gov/publications/2020/jcx-23-20/*.

3. Develop voluntary witness disclosure statements for individuals testifying before the tax-writing committees. Such statements should ask witnesses to volunteer information with respect to their gender, race, ethnicity, and veteran status;
4. Amend the tax-writing committee rules to require staff to include voluntarily-provided demographic data of witnesses testifying before the committees in end-of-congress reports and hearing transcripts; and
5. Charge JCT with including demographic distribution data when preparing estimates of business tax expenditures in its annual tax expenditure reports.

Combating inequality in the U.S. tax system will require sustained commitment by this Committee and holding this hearing is an important step. I stand ready to help the Committee with its work. Feel welcome to contact me with questions regarding the foregoing.

LETTER SUBMITTED BY ANNE-MARIE YARBROUGH BUZATU

Dear Committee Members,

Imagine you were born in Canada, but moved to Texas as a young person, obtained U.S. citizenship and built your family life and career in Texas. You love your life in Texas, but there is one BIG catch: you have to pay higher Canadian tax rates on your income, often on top of the taxes you are already paying in the U.S., for services such as Canadian nationalized health care that you never personally benefit from. You can't take advantage of U.S. tax programs such as 401K plans and education deductions because they are not "Canadian approved" programs. Furthermore, Texas banks have to report all of your financial records to the Canadian tax authorities, and as a result very few banks will accept you as a client, so you can't shop around for a better mortgage or a higher savings interest rate. Finally, you are effectively barred from investing in any kind of mutual funds or investment instruments in Texas because they are treated by Canada as "offshore" accounts overseen by the Canadian Financial Crimes Unit, with onerous reporting requirements and punitive tax rates. All of this because you were born in Canada, and because of your place of origin you are treated differently from/more punitively than other Americans—even those born in other countries. Then imagine that your repeated calls to change the system to something more equitable were systematically ignored by both Canadian and U.S. authorities. Sound unfair? This is the reality I have to contend with every day as a "U.S. person" residing in Switzerland.

I am an American citizen, born and raised in Texas, who has resided in Switzerland for more than 15 years, and who has recently obtained Swiss citizenship. Because of my status as a "U.S. person", I am discriminated against in Switzerland, my place of residence and now nationality, because of the U.S. practice of taxing "U.S. persons" on their worldwide income, and the Foreign Account Tax Compliance Act (FATCA) and the bilateral agreement that the U.S. negotiated with Switzerland in order to enforce FATCA. Furthermore, because I reside outside of the U.S., I am discriminated against as compared to my U.S.-based compatriots and am unable to benefit from a whole host of social benefits, tax deductions and banking services. Here are a few examples:

- I am **effectively banned from opening an investment account in Switzerland,** my place of residence and nationality, because financial institutions do not want to assume the onerous reporting requirements that come with a potential withholding fee of 30%.
- **Nearly all banks in Switzerland will not accept me as a client** for regular banking services for the same reasons, so there is no way for me to compare banking services or take advantage of offers that are not provided by the one bank that will accept me (UBS).
- **Nearly all U.S.-based investment firms and banks will not accept me as a client** because I am not a resident of the U.S.
- I pay into a **retirement fund that is very similar to a 401K program,** and which provides similar tax advantages in Switzerland because I am only taxed on that income when I take it out at retirement; but both my and the employer's contributions are taxed by the U.S. in the year I earn them meaning I am **taxed at a punitive rate.**
- I **cannot take deductions for my sons' university tuition** because they schools they go to are not on the U.S. Department of Education's Database of

Accredited Post Secondary Institutions and Programs (DAPIP)[1] or the Federal Student Loan Program list.[2]

- I am **not able to benefit from** a whole host of **tax deductions and credits that my U.S.-residing compatriots do** because I am not a resident of the U.S.
- **Many IRS services are only available to U.S. residents,** meaning that they are not available to me as a U.S. person residing abroad.
- **Being a "U.S. person" has impacted me professionally** because any Swiss institution I work and have bank signatory rights for would have to have their finances reported to the IRS. **I have only worked for non-profit NGOs in Switzerland.**
- In many cases **Swiss taxes are assessed in a manner that is fundamentally incompatible with the U.S. income tax** approach, meaning that in some cases I am **double-taxed by both systems;** the current U.S.-Swiss tax treaty does not effectively address these inconsistencies (see more below).

U.S. taxation on my and my husband's income is disastrous for us, for numerous reasons which are laid out in detail in the below submission. However, before wading into the weeds, I wanted to put up front my recommendations for how to overhaul international taxation so that it is fairer and reduces discrimination against folks like myself:

(1) **Change the system of citizen-based taxation of individuals** to that of individual taxation on only income earned from U.S. sources, and not worldwide taxation, also known as **resident-based taxation for individuals,** the kind of income taxation that most of the rest of the world practices (for a relatively simple and fast interim fix to this issue by the U.S. Treasury while waiting on lengthier legislative processes, please read this article);[3]

(2) Create a **special committee that looks at the impacts of U.S. taxation on its nationals residing abroad** so that any changes made to the tax code are reviewed by this body to ensure that our situations are taken into consideration, including analyses of how they are (in)compatible with the tax systems of the other 190+ countries in which U.S. persons live in order to protect against unintended negative consequences; and finally

(3) To include **formal representation of Americans living abroad** in our representative bodies, as the approximately 9 million of us living abroad need a voice. Switzerland and France include seats for their citizens residing abroad in their Parliaments, and the U.S. can and should do the same.

To understand why I am making these recommendations, please read the more personal account below.

I was born and raised in Texas, where I lived most of my life until I and my family moved to Switzerland more than 15 years ago. We didn't feel we had much choice. In August 2005, my husband was laid off from his job in the high-tech sector. We had two young boys aged 4 and 7, and I was working as a part-time consultant and a more than full-time mom. Once my husband lost his job, we suddenly were faced with extremely high health insurance costs (COBRA), significant student loan debts and a high monthly rent with no income. My husband applied for several jobs and had a few interviews, but the one he got was working in IT for the International Computing Center, a UN-affiliated computer services organization, located in Geneva, Switzerland.

In Switzerland, I went back to school studying the impact of war and on international security and human rights. I subsequently managed to carve out a really fulfilling career working for Swiss-based NGOs where I strive to limit the negative impacts of businesses on human rights, as well as work with the private sector to foster positive change, both on the ground as well as in the halls of international policy.

I love the U.S. and have close ties with family members and several good friends who live there. Both of my elderly parents are alive, but have been experiencing some serious health issues of late. Before the pandemic, I typically would visit them at least once a year, and it has been tough waiting on the sidelines, hoping that I will be able to see them again before too long. It is important to me that I am able to visit them, and to be able to spend more time with them should they need

[1] *https://ope.ed.gov/dapip/#/home.*

[2] *https://studentaid.gov/understand-aid/types/international.*

[3] *https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3795480&fbclid=IwAR10eXmPraGW3Wuaa_VgnL7HYObjUBZz3302cglQOsT2rPyxtmy5SS7ibgU.*

extra care and support, and more generally I love getting back to the U.S. There are definitely things that I miss, like really good Tex-Mex (!) in an affordable restaurant, infinite sunsets over a West Texas sky, and easy, laid-back conversations with good friends and family.

What I do not love is the U.S. taxation of people like me who live, work and pay taxes in a completely different tax system, which in many areas is completely incompatible with the U.S. tax system. As a matter of fact, you could say that the U.S. has three different distinct income tax regimes which creates different, unequal classes of taxation: 1. Residence—For U.S. residents, 2. U.S. Source—For non-resident aliens, 3. Extraterritorial—For Americans Abroad. This last regime to which I and my family are subject means that we don't get the same kinds of deductions and tax credits as our homeland-based compatriots. For example: I participate in an employer-contribution retirement program which is very similar to U.S. 401K programs: the employer matches my contributions, and I do not have to declare the employer nor my contributions on my Swiss taxes as they are paid, only when I take them out after retirement when I am likely earning much less. However, the U.S. taxes me on the employer contributions as well as my own contributions to the tax plan *in the year that they are paid,* so I am taxed by the U.S. on money I haven't even received, and likely at a higher tax rate than I would be at during retirement. Another example: my son is going to a university located in Berlin, Germany, however the school is not on the list of U.S. recognized educational institutions, so we are unable to deduct his tuition from our taxes.

Furthermore, Swiss income taxes are structured completely differently from those of the U.S., and they are in most cases lower than the U.S. income tax rates. However, the cost of living in Switzerland is one of the highest in the world and is considerably higher than we were paying in Texas. People who visit from the U.S. are shocked at the prices in the stores and restaurants here, and renting/buying homes is extremely expensive. However, because of the relatively high salaries (in Geneva we have an approximate $25/hour min. wage) and low taxes, these prices are generally affordable to people who work here. Less so for us: as "U.S. persons", because we are unable to take many of the same deductions as our homeland compatriots, we essentially have to pay higher U.S. taxes than Americans living in the U.S., higher taxes than others who live and work in Switzerland and pay the higher Swiss prices. And to be very clear, we are not earning very high salaries, but rather are at that sour spot of earning just a little more than the Foreign Earned Income Exemption (FEIE) once things like our employer contributions to pensions and other benefits—much of which we don't get in pocket—are taken into account. As such, we pay U.S. taxes at a pretty high rate on income that doesn't make it into our bank account and given the high cost of living we have here, this means we are penalized financially relative to our colleagues who are working similar jobs.

Moreover, as U.S. persons residing abroad, we are not able to take advantage of many of the tax credits that are available to those living in the U.S. For example, in March 2018 we bought a Tesla Model 3 (the more affordable Tesla) and were under the impression that we would be able to get the $7,500 tax credit to help us offset the still significant cost. However, when we did our U.S. taxes, we learned that this tax credit was only available to those actually living in the U.S., not those living abroad. In a way I understand the rationale: our Tesla would not be directly benefiting those living in the U.S. (although it is contributing to an overall globally cleaner environment), and therefore we should get no incentive from the U.S. to buy it. However, by the same logic, we should not be paying taxes in the U.S. on income that we do not earn from there, to pay for an infrastructure and a Congress that does not directly benefit or represent us.

Coming back to the incompatibility between Swiss and U.S. income tax systems, this is not just limited to the fact that similar Swiss retirement and education tax programs are not recognized by the U.S., but also to completely different approaches in the manner of calculating income tax. For example, in Geneva the way that taxes are assessed in relationship to our townhouse is that the income tax authorities tax us on the fictional "income" we would have earned if we had been renting the house out (which we are not). The way they calculate this is very complicated and not fully known to me, but it has something to do with the type of property, when the property was built, where it is located, and the amount of income that we earn from our work (this last element helps to ensure that we will not be priced out of our home by property taxes even as property values rise). Furthermore, it is something we find out long after the fact of filing taxes. For example, for tax year 2020, we will file our Swiss tax returns in June of 2021 and we will get the calculation of this "income tax on our property" somewhere in October–November 2021, long after

our U.S. tax returns are due and interest is being assessed on any unpaid amounts. Furthermore, its incompatibility with how U.S. assesses income and property taxes makes it really difficult to know how to include that in our tax returns. We tried to do it for a couple of years, but this did not seem to be accepted by the IRS, and then we had to pay additional taxes with penalties and interest. Now we do not even try to include these taxes we pay on our U.S. tax return, and so we are being double-taxed by both Swiss and U.S. jurisdictions on that income.

When it comes to trying to get information, help and guidance from the IRS so that we can navigate these difficulties more easily, this is also not set up for those of us living abroad. Most of the time when I call the IRS, I get a message that the line is too busy and they are not accepting calls at that time. Sometimes I have gotten a message saying that the estimated wait is between a certain time, such as 7 to 10 minutes, and then finally hung up after being on hold for more than 30 minutes. Needless to say, there are no toll-free numbers for U.S. persons abroad, so of course we have to pay international long-distance rates. However, even many of the IRS online services are not available to those of us living outside of the U.S. (see below for an example).

Another problem is that as "U.S. persons", nearly ALL banks will simply not open an account for us, which has huge implications on, for example, shopping for affordable mortgages from local/cantonal banks.

Further, we are effectively banned from investing in any kind of stocks, bonds or mutual funds in our country of residence *and* nationality. We are getting older, and we wanted to try to invest in a mutual fund here to put aside a little extra money for our golden years. However, the only bank we found in Switzerland that would accept us as customers had a 250,000 Swiss Francs (about $270,000) minimum investment requirement—something that is definitely out of our league! Furthermore, we learned that even if we could and did invest in a mutual fund here in the country where we live (and now are also citizens of), that it would be treated by the U.S. as a "Passive Foreign Investment Company" and would be taxed at an exorbitant rate.

Discrimination against me as a "U.S. person" has also impacted me professionally. After I was hired as the COO for a very small, non-profit Swiss NGO we learned that if I were given signatory rights on our organizational bank account, that the financial records of this Swiss organization would have to be sent to the IRS. Therefore, I do not have these rights, and I can't perform all of the functions of my role. This puts me at a disadvantage employment-wise relative to all of the qualified candidates who do not have U.S. citizenship.

Furthermore, filing and paying taxes in the U.S. is extremely complicated, and calculations/corrections made by the IRS are not transparent. We have consistently filed and tried to pay our taxes in accordance with the rules as we understand them, although the tax code is not exactly straight-forward especially for people like us living outside the U.S.. Sometimes we get bills years later without any explanation as to why or how new calculations were made. For example, we recently got a bill from the IRS from 2014 for nearly $8,000(!) This is a lot of money for us. I wrote the IRS and asked for an explanation of how they calculated this amount more than six years after the fact and got no response except for a threatening letter that they are going to levy taxes on our assets. I tried to go online to get a transcript of how they calculated this tax, however the online service is not available to persons who live abroad! There is a phone-in/write-in service to obtain tax transcripts, but it only goes back to the previous three years' returns. I tried to call anyway and was not able to get through.

I am not against paying taxes, and fully recognize the necessity of them. If I were to earn any money from U.S. sources, it would make sense that I pay U.S. tax rates under the U.S. tax system, but not that I pay Swiss taxes on top of them. If every country taxed because of nationality (or even former permanent residence status) with no regard to the other nationalities and their accompanying tax systems, the impacts would be devastating: many persons here in Geneva have 3, 4 or even more nationalities, and having to satisfy the requirements of multiple different, incompatible national income tax systems on income earned in one country would not be sustainable, nor would it be fair. In this respect the U.S. is the only country (outside of Eritrea) that taxes on the basis of nationality/permanent residence, but this also highlights how incongruent and out of step this practice is with the rest of the world, and for its citizens/permanent residents who happen to reside in other countries. Every time Congress makes a change to the tax code, this directly impacts me and those of us living outside of the U.S. who are also subject to other tax code

regulations. However, these impacts are rarely if ever discussed by members of Congress, and certainly not studied in depth as to how they will impact/interact with the other 190+ countries' income tax regimes where U.S. persons may be living. This results in devastating unintended consequences on ordinary folks: if I were rich, or a multinational, I would have the resources to figure out how to get around the different tax systems, but I am not.

Finally, I cannot express the anger and frustration I feel when I read that Amazon and 54 other major U.S. corporations, as recently reported in *The New York Times,*[4] paid ZERO income taxes on incredible, record-setting profits in the many billions. How is it that we, a middle-class family who hasn't even lived or earned any income in the U.S. for more than 15 years, are effectively paying more income taxes than Amazon?

Therefore, we ask you to:

(1) Change the system of citizen-based taxation of individuals to that of individual taxation on only income earned from U.S. sources, and not worldwide taxation, also known as **resident-based taxation for individuals,** the kind of income taxation that most of the rest of the world practices (for a relatively simple and fast interim fix to this issue by the U.S. Treasury while waiting on lengthier legislative processes, please read this article);[5]

(2) Create a **special committee that looks at the impacts of U.S. taxation on its nationals residing abroad** so that any changes made to the tax code are reviewed by this body to ensure that our situations are taken into consideration in such regulation and to protect against unintended consequences; and finally

(3) To include **formal representation of Americans living abroad in our representative bodies,** as the approximately 9 million of us living abroad need a voice. Switzerland and France include seats for their citizens residing abroad in their Parliaments, and the U.S. can and should do the same.

We should not be penalized and discriminated against just because we were born in, had American parents or lived a significant time in the U.S., and reside in another country. Furthermore, we can be an important resource to the U.S.—we can play the role of "local ambassador" in our countries of residence, helping to bridge differences and forge understandings between the U.S. and the countries we call home, which is increasingly important in our highly interconnected, shrinking world.

As a last note, it is more than somewhat ironic that the U.S. ostensibly got its start over a tax dispute with its overseas colonial parent, with American revolutionaries crying out the slogan "no taxation without representation," launching a war that brought about the birth of our nation, and yet it taxes folks like me who earn their income completely outside the U.S. system and have no effective representation on the U.S.-created impacts we face living abroad. That notion of justice, of democratic representation and fair taxation is fundamental to the very identity of the United States, and yet somehow it is the only developed country that burdens individuals such as myself with a tax imposition that does not take into account the situations in which we are living, and which prevents us from fully participating in the societies of which we are part.

Many have said that you, our representatives, don't care for U.S. persons residing abroad, that we don't matter enough in terms of votes or funding, that our situations don't play well on media platforms in terms of messaging, that we don't have enough pull or importance to get any attention. However, I am still hoping that you can care about something that is wrong and unfair, even if it isn't politically expeditious. In fact, it is my American-bred idealism and pragmatic, can-do spirit that make me believe that we can work together to develop an income tax system that is fair and not unduly burdensome, and that honors those fundamental American values which we all hold dear.

I thank you for your time and attention, and hope that this submission will be fully considered by the Committee. I would be happy to provide any additional information or support to help you better understand the implications of the U.S. income tax system on folks like me who live in other countries.

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[4] *https://www.nytimes.com/2021/04/02/business/economy/zero-corporate-tax.html.*

[5] *https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3795480&fbclid=IwAR10eXmPraGW3Wuaa_VgnL7HYObjUBZz3302cglQOsT2rPyxtmy5SS7ibgU.*

Sincerely,

Anne-Marie Yarbrough Buzatu

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Statement of Michael G. Bindner

Chairman Wyden and Ranking Member Crapo, thank you for the opportunity to submit these comments for the record to the Committee on this topic.

First, we will review income data by race.

As you know, the IRS does not collect information on race, ethnicity or gender when we file taxes. The best we can do is analyze differences in income by race, as estimated by the Current Population Survey published by the U.S. Census Bureau. From this, we can infer the impact on tax collections. To ease presentation, only two categories are used: white non-hispanic and other.

There are a total of 128.4 million American households, 8.7 million are in the white middle and upper middle classes (top 10%), with 4.5 million non-whites in the top 10%. There are 76.2 million white and 39.1 million non-whites in the bottom 90% of households. Here is how income is distributed.

	Households (millions)	Income (trillions)	Percentages in group	Percent of total
Total	128.4	$12.6		
White top 10%	8.7	$3.4	38%	27%
White next 90%	76.2	$5.6	62%	44%
Other top 10%	4.5	$1.0	29%	8%
Other remaining 90%	39.1	$2.5	71%	20%
All white	84.9	$9.0	71%	66%
All other	43.6	$3.5	28%	34%
All top 10%	13.2	$4.4	35%	
All next 90%	115.3	$8.1	64%	

Among Whites, the top 10% of households receive 38% of income within the group and 27% of the total population. Among others, the top 10% receive 29% within the group and 8% of the total. The top 10% in the population receive 35% of income. Whites make up 66% of the population, receiving 71% of the income.

Over time, this has led to wealth inequality. This table is excerpted from our forthcoming volume on who owns the national debt. For more on the topic of debt as class warfare, see the first attachment. Here is how assets are broken down by race, as estimated using the 2019 Survey of Consumer Finance conducted by the Federal Reserve.

Family characteristic	Households Thousands	Total Federal Reserve and Bank Assets Billions	Bond Assets Billions	Savings Bond Assets Billions	Cash value life insurance assets Billions	Retirement account assets Billions	Managed Assets Billions
All families	128,451	6,256	922	82	1,001	16,548	13,816
Race or ethnicity of respondent							
White non-Hispanic	84,868	5,205	858	69	798	14,282	12,461
Black or African-American non-h	17,054	240		1	88	649	82
Hispanic or Latino	17,667	201		5	20	482	349
Other or Multiple Race	8,862	455	30	7	64	908	831
Total Other	43,583	896	65	13	172	2,266	1,355

This chart shows the mix between race and class, with all non-White, non-Hispanics combined into a single class. Understanding this table will give you insight into why poor Whites resent minorities and why these two groups vote in separate parties.

Family characteristic	Households Thousands	Total Federal Reserve and Bank Assets Billions	Bond Assets Billions	Savings Bond Assets Billions	Cash value life insurance assets Billions	Retirement account assets Billions	Managed Assets Billions
All families	128,451	6,256	922	82	1,001	16,548	13,816
White Top 10%	8,701	2,948	661	36	480	7,911	9,689
White Bottom 90%	76,167	2,256	196	33	317	6,371	2,772
Other Races Top 10%	4,469	507	50	7	104	1,255	1,053
Other Races Bottom 90%	39,114	388	15	6	69	1,011	301

This chart shows why lower income Whites and non-Whites need to find unity.

Family characteristic	Households Thousands	All Domestic Public Debt Held Billions	Public Trust Fund Assets Billions	Debt Owed	Taxes Paid 2017	All Income Billions 2019
All families	128,451	11,965.8	5,384	27,073	1,601	12,599
White Upper Class	8,701	6,838	223	12,346	730	3,425
White Middle Class	26,077	2,576	911	5,262	311	3,324
White Working Class and Retirees	50,089	1,131	2,855	2,405	142	1,981
Non-Whites	43,583	1,421	1,395	7,097	420	3,548

Next, we will turn our attention to current tax policy.

Prior to the *American Recovery Plan Act,* the tax code was what we inherited from the Tax and Job Cuts Act (not a typo) passed in the 116th Congress. As we detailed at the time, this legislation rewarded the speculative sector, including corporations, while simplifying personal income tax filings (although sole proprietors may not see it that way). The Act was supply side economics run amok. One year after these cuts took effect (giving them time to work their way through the economy), economic growth was down by approximately one percent of GDP. Our analysis of the TCJA can be found in Attachment Two.

In January of 2020, I predicted the failure of mortgage backed securities holding single family home rental properties (which have been sold to Exchange Traded Funds) and cryptocurrency. The Federal Reserve's efforts to back toxic securities due to the pandemic prevented Exchange Traded Funds holding ETFs from crashing. The slowing in the economy prevented mass sales of crypto to the general public.

The *ARPA* has its pluses and its minuses. On the minus side, families who had adequate income during the pandemic now have money to blow. Instead of spending it they are using it to speculate. Masses of people are about to enter the bottom half of EFT and Crypto markets, which will allow the top tiers of the scheme (whose seed money was provided by the Ryan-Brady-Trump tax cuts) to get out.

The increased Child Tax Credit and its new refundability will provide long term economic security to children and their parents, especially their mothers. For some families, one or the other parent can stay home with the children—including the father. When my daughter was born, my wife had a career position and I did not, so it was a no-brainer for me to stay home to be the nurturing parent. The new provisions will give others that chance—especially if credits are expanded to median income levels.

The new CTC provisions are good for women and racial and ethnic minorities, as well as the White Working Class. Giving everyone a better deal will lower the temperature, provided it does not come with the "stink of welfare."

There are two avenues to distribute money to families. The first is to add CTC benefits to unemployment, retirement, educational (TANF and college) and disability benefits. The CTC should be high enough to replace survivor's benefits for children.

The second is to distribute them with pay through employers. This can be done with long term tax reform, but in the interim can be accomplished by having employers start increasing wages immediately to distribute the credit to workers and their families, allowing them to subtract these payments from their quarterly corporate or income tax bills.

Over the long-haul, tax reform is necessary to cement these gains. Please see our tax reform plan in the third attachment. It is designed to provide adequate income and services to families (both with increased minimum wages and Child Tax Credits) through employer-paid taxes, funding government services through a goods and services tax, separating out taxation of capital gains and income from income to an asset value added tax and higher tier subtraction VAT collections on wage income up to the $330,000 level and above, with additional personal income taxation for incomes over $425,000.

The top rates for higher tier subtraction VAT, personal income taxes and asset VAT would all be set to the same rate, say 26%, so that forms of income are not manipulated to avoid taxation. It would also effectively raise taxes on salaried income to 52%, with capital incomes reinvested or investments funded by salary income adding an additional 26% of taxation. Spending money will also trigger taxation.

Adding the effect of lower tier subtraction VAT collection to taxation on business owners and the top marginal rate approaches 90%. Such taxes are meant to prevent payment of extreme salaries rather than maximizing revenue. This provides more wages to the rest of the population, especially to those who are not adequately compensated at lower income levels.

Thank you for the opportunity to address the committee. We are, of course, available for direct testimony or to answer questions by members and staff.

Attachment One—Debt as Class Warfare, September 24, 2020

Visibility into how the national debt, held by both the public and the government at the household level, sheds light on why Social Security, rather than payments for interest on the public debt, are a concern of so many sponsored advocacy institutions across the political spectrum.

Direct household attribution exists through direct bond holdings, income provided by Social Security payments and secondary financial instruments backed with debt assets. Using the Federal Reserve Consumer Finance Survey and federal worker and Social Security payment and tax information, we have calculated who owes and who owns the national debt by income quintile. Federal Reserve and Bank holdings are attributed based on household checking and savings account sizes.

Responsibility to repay the debt is attributed based on personal income tax collection. Payroll taxes create an asset for the payer, so they are not included in the calculation of who owes the debt. Calculations based on debt held when our study on the debt was published, distributed based on the latest data (2017) from the IRS Data Book show a ratio of $16.5 of debt for every dollar of income tax paid.

This table shows a summary level distribution of income, national debt and debt assets in three groupings based on share of Adjusted Gross Income received, rather than by number of households. This answers the perennial question of who is in the middle class.

Descending cumulative percentiles	Millions of Returns Filed	Millions of Returns Paying Tax	AGI	Income Tax Piad	Gross Debt (Factor) 16.55	Held by Federal Reserve and Banks	Held in Bonds	Held in Personal Accounts	Held in Government Debt	Assets Net of Debt Liability
			Amounts (Billions)							
All returns, total	**143.3**	**99.4**	**10,937**	**1,601**	**26,500**	**5,238**	**4,222**	**3,854**	**5,384**	**(7,802)**
Top 5% IRS, 8.5% CPS, $208,053	7.2	7.2	3,995	947	15,671	2,926	3,693	2,411	294	**(6,347)**
5%-25% IRS, 8.5%-37.2% CPS, $83,682	28.7	28.3	3,566	432	7,146	1,399	529	1,046	1,238	**(2,934)**
Bottom 75% IRS, 62.8% CPS, $0	107.5	63.9	3,375	223	3,683	913	-	397	3,852	**1,479**

The bottom 75% of taxpaying units hold few, if any, public debt assets in the form of Treasury Bonds or Securities or in accounts holding such assets. Their main national debt assets are held on their behalf by the Government. They are owed more debt than they owe through taxes.

The next highest 20% (the middle class), hold few bonds, a third of bond-backed financial assets and a quarter of government held retirement assets.

The top 5% (roughly 8.5% of households) own the vast majority of non-government retirement holdings and collect (and roll over) most net interest payments. This stratum owns very little of retirement assets held by the government, hence their interest in controlling these costs. Their excess liability over assets is mostly attributable to internationally held debt. Roughly $4 trillion of this debt is held by institutions, with the rest held by individual bond holds, including debt held by members of this stratum in off-shore accounts.

Source: *Settling (and Squaring) Accounts: Who Really Owes the National Debt? Who Owns It?* available from Amazon at *https://www.amazon.com/dp/B08FRQFF8S*.

Attachment Two—The Tax and Job Cuts Act

The Tax and Job Cuts Act (not a typo) was a classic piece of Austrian Economics, where booms are encouraged and busts happen with no bailouts. Strong companies and best workers keep jobs and the devil takes the hindmost. It is economic Darwinism at its most obvious, but there is a safety valve. When tax cuts pass, Congress loses all fiscal discipline, the Budget Control Act baseline discipline is (as it should be) suspended and deficits grow. Bond purchasers pick up the slack caused by the TCJA, which they will as long as we run trade deficits, unless the President's economic naiveté ruins that for us.

Modern economics has become infected with the idea that higher tax rates and lower public spending hurt the economy. By definition, this is not the case. The exact opposite is true. To refresh our memories of what is in the U.S. Code and most basic economics textbooks, Gross Domestic Product equals equal government purchases, consumption from government employee, contractor, transfer recipient and second order private sector spending, which leads to private sector investment, and exports net of imports (which creates a source of funds for debt finance).

Anything that is not part of GDP is considered "savings" or in reality, is asset inflation. If you want to end poverty, give poor people and retirees more money and the economy will grow. Increase government expenditure (even bombers) and the economy will grow, including for the now notorious upper middle class.

Lower tax rates also made money available to chase the same supply of investment instruments, which bid up their price, and caused the invention of a whole range of new products which would be built up and sold by the emerging financial class, who would profit-take and watch what they created go bust and start yet another modern recession, especially the Great Recession just experienced. Only higher tax rates or increased deficit spending control such asset inflation (and the consumption cycles associated with them—which Marx thought was the driver of the boom bust cycle—Marx had a failure of imagination).

A key part of our proposals is to increase income tax revenue from the very wealthy through our income surtax. The higher the marginal tax rate goes, the less likely shareholders and CEOs will go after worker wages in the guise of productivity while pocketing the gains for themselves. Since shareholders usually receive a normal profit through dividends, it is the CEO class that gets rich off of workers unless tax rates are high enough to dissuade them.

Attachment Three—Tax Reform, Center for Fiscal Equity, March 5, 2021

Individual payroll taxes. These are optional taxes for Old-Age and Survivors Insurance after age 60 for widows or 62 for retirees. We say optional because the collection of these taxes occurs if an income sensitive retirement income is deemed necessary for program acceptance. Higher incomes for most seniors would result if an employer contribution funded by the Subtraction VAT described below were credited on an equal dollar basis to all workers. If employee taxes are retained, the ceiling should be lowered to $85,000 to reduce benefits paid to wealthier individuals and a $16,000 floor should be established so that Earned Income Tax Credits are no longer needed. Subsidies for single workers should be abandoned in favor of radically higher minimum wages.

Wage Surtaxes. Individual income taxes on salaries, which exclude business taxes, above an individual standard deduction of $85,000 per year, will range from 6.5% to 26%. This tax will fund net interest on the debt (which will no longer be rolled over into new borrowing), redemption of the Social Security Trust Fund, strategic, sea and non-continental U.S. military deployments, veterans' health benefits as the result of battlefield injuries, including mental health and addiction and eventual debt reduction. Transferring OASDI employer funding from existing payroll taxes would increase the rate but would allow it to decline over time. So would peace.

Asset Value-Added Tax (A–VAT). A replacement for capital gains taxes, dividend taxes, and the estate tax. It will apply to asset sales, dividend distributions, exercised options, rental income, inherited and gifted assets and the profits from short sales. Tax payments for option exercises and inherited assets will be reset, with prior tax payments for that asset eliminated so that the seller gets no benefit from them. In this perspective, it is the owner's increase in value that is taxed.

As with any sale of liquid or real assets, sales to a qualified broad-based Employee Stock Ownership Plan will be tax free. These taxes will fund the same spending items as income or S–VAT surtaxes. This tax will end Tax Gap issues owed by high income individuals. A 26% rate is between the GOP 24% rate (including ACA–SM and Pease surtaxes) and the Democratic 28% rate. It's time to quit playing football with tax rates to attract side bets.

Subtraction Value-Added Tax (S–VAT). These are employer paid Net Business Receipts Taxes. S–VAT is a vehicle for tax benefits, including

- Health insurance or direct care, including veterans' health care for non-battlefield injuries and long term care.
- Employer paid educational costs in lieu of taxes are provided as either employee-directed contributions to the public or private unionized school of their choice or direct tuition payments for employee children or for workers (including ESL and remedial skills). Wages will be paid to students to meet opportunity costs.
- Most importantly, a refundable Child Tax Credit at median income levels (with inflation adjustments) distributed with pay.

Subsistence level benefits force the poor into servile labor. Wages and benefits must be high enough to provide justice and human dignity. This allows the ending of state administered subsidy programs and discourages abortions, and as such enactment must be scored as a must pass in voting rankings by pro-life organizations (and feminist organizations as well). To assure child subsidies are distributed, S–VAT will not be border adjustable.

The S–VAT is also used for personal accounts in Social Security, provided that these accounts are insured through an insurance fund for all such accounts, that accounts go toward employee-ownership rather than for a subsidy for the investment industry. Both employers and employees must consent to a shift to these accounts, which will occur if corporate democracy in existing ESOPs is given a thorough test. So far it has not. S–VAT funded retirement accounts will be equal-dollar credited for every worker. They also have the advantage of drawing on both payroll and profit, making it less regressive.

A multi-tier S–VAT could replace income surtaxes in the same range. Some will use corporations to avoid these taxes, but that corporation would then pay all invoice and subtraction VAT payments (which would distribute tax benefits). Distributions from such corporations will be considered salary, not dividends.

Invoice Value-Added Tax (I–VAT). Border adjustable taxes will appear on purchase invoices. The rate varies according to what is being financed. If Medicare for All does not contain offsets for employers who fund their own medical personnel or

for personal retirement accounts, both of which would otherwise be funded by an S–VAT, then they would be funded by the I–VAT to take advantage of border adjustability. I–VAT also forces everyone, from the working poor to the beneficiaries of inherited wealth, to pay taxes and share in the cost of government. Enactment of both the A–VAT and I–VAT ends the need for capital gains and inheritance taxes (apart from any initial payout). This tax would take care of the low-income Tax Gap.

I–VAT will fund domestic discretionary spending, equal dollar employer OASI contributions, and non-nuclear, non-deployed military spending, possibly on a regional basis. Regional I–VAT would both require a constitutional amendment to change the requirement that all excises be national and to discourage unnecessary spending, especially when allocated for electoral reasons rather than program needs. The latter could also be funded by the asset VAT (decreasing the rate by from 19.5% to 13%).

As part of enactment, gross wages will be reduced to take into account the shift to S–VAT and I–VAT, however net income will be increased by the same percentage as the I–VAT. Adoption of S–VAT and I–VAT will replace pass-through and proprietary business and corporate income taxes.

Carbon Value-Added Tax (C–VAT). A carbon tax with receipt visibility, which allows comparison shopping based on carbon content, even if it means a more expensive item with lower carbon is purchased. C–VAT would also replace fuel taxes. It will fund transportation costs, including mass transit, and research into alternative fuels (including fusion). This tax would not be border adjustable.

Summary

This plan can be summarized as a list of specific actions:

1. Increase the standard deduction to workers making salaried income of $425,001 and over, shifting business filing to a separate tax on employers and eliminating all credits and deductions—starting at 6.5%, going up to 26%, in $85,000 brackets.
2. Shift special rate taxes on capital income and gains from the income tax to an asset VAT. Expand the exclusion for sales to an ESOP to cooperatives and include sales of common and preferred stock. Mark option exercise and the first sale after inheritance, gift or donation to market.
3. End personal filing for incomes under $425,000.
4. Employers distribute the Child Tax Credit with wages as an offset to their quarterly tax filing (ending annual filings).
5. Employers collect and pay lower tier income taxes, starting at $85,000 at 6.5%, with an increase to 13% for all salary payments over $170,000 going up 6.5% for every $85,000—up to $340,000.
6. Shift payment of HI, DI, SM (ACA) payroll taxes employee taxes to employers, remove caps on employer payroll taxes and credit them to workers on an equal dollar basis.
7. Employer paid taxes could as easily be called a subtraction VAT, abolishing corporate income taxes. These should not be zero rated at the border.
8. Expand current state/federal intergovernmental subtraction VAT to a full GST with limited exclusions (food would be taxed) and add a federal portion, which would also be collected by the states. Make these taxes zero rated at the border. Rate should be 19.5% and replace employer OASI contributions. Credit workers on an equal dollar basis.
9. Change employee OASI of 6.5% from $18,000 to $85,000 income.

LETTER SUBMITTED BY SYLVIA DE BRUIN

U.S. Senate
Committee on Finance

I am a proud American citizen who lives outside the United States. To be clear: I am an individual. I am not a corporation. I am not a multinational. I did not move from the United States to avoid paying U.S. taxes. But, by moving from the United States, I am automatically subject to the U.S. Extraterritorial tax regime—a regime that imposes more punitive taxation and reporting on Americans living abroad—

than is imposed on American residents. This is because the Internal Revenue Code treats all things foreign to the United States punitively.

I moved from the United States because I had a job opportunity in the Netherlands. In fact, am a full tax resident the country where I live. But, because I actually live and work in the Netherlands I am required to pay taxes and assume responsibility for my financial and retirement planning here, where I live. My income, financial and retirement assets are foreign to the United States, but are local to me. Because my income and financial assets, although local to me, are foreign to the United States I am subject to the U.S. Extraterritorial tax regime. As such, I am subject to constant stress and fear of penalties should I make mistakes in complying with the Internal Revenue Code. Furthermore, I find it very difficult to find competent professional help. The help I can find is very expensive (often costing more than $500 a year).

I know that you will find it difficult to relate to this. However, because and only because, I live outside the United States, my difficulties include the following:

- Difficulty in maintaining bank/financial accounts where I live:
    - FATCA has provided incentives for banks in my country to refuse to deal with U.S. citizens.
- Punitive Taxation on non-U.S. mutual funds.
- Being able to participate in non-U.S. pensions and still get the benefits of tax deferral available to my neighbors.
- Taxation on the sale of my principal residence which is not taxed in the country where I live.
- Difficulty in carrying on a business. It is normal for people in my country to carry on business through small business corporations—which are taxed punitively by the IRS (GILTI).
- Having the retirement savings in my corporation effectively confiscated by the 965 Transition Tax.
- Being subject to income based on phantom capital gains. (Because I am required to live my life tethered to the U.S. dollar, fluctuations in the exchange rate can result in unexpected fake income).

To be clear, I am and will always be a proud American. But, I find it very difficult to maintain compliance with both the U.S. Internal Revenue Code and the tax code of my country of residence. Because of this dual tax obligation, I am finding it very difficult to save and invest for retirement. What one country gives, the other country takes. The necessity of complying with both tax regimes means that I get the worst of each tax regime. As a result, I feel that I am being forced to consider whether it is possible to retain my U.S. citizenship. No proud American should be forced to choose between his cherished U.S. citizenship and the need to engage in responsible financial/retirement planning.

It is terribly unfair, that because I live outside the United States, that I am forced to choose between my responsibilities to plan for retirement and my responsibilities under the Internal Revenue Code. Why should I be subject to additional requirements that resident Americans are not? I am not living in the United States and using services in the United States. I have even been denied a COVID–19 vaccine from the U.S. Government (because I don't live in the United States) while being required to pay taxes to the United States!

The U.S. Extraterritorial tax system is terribly unfair.

A great American writer, the late Pat Conroy, began his book "The Prince of Tides" with the words: "My wound is geography. It is also my anchorage, my port of call."

Although, my U.S. citizenship is my anchorage and my port of call. The unfair U.S. extraterritorial tax regime—triggered by my geography—is most definitely my wound.

Please fix this extreme injustice!

LETTER SUBMITTED BY CHRISTINE DYMKOWSKI

I am an American citizen who has lived outside the United States for virtually my entire adult life. I am a middle-income individual, who did not move from the

United States to avoid paying U.S. taxes, but because I fell in love with someone British. However, by moving from the United States, I am automatically subject to the U.S. extraterritorial tax regime, one that imposes more punitive taxation and reporting on Americans living abroad than is imposed on American residents. This is because the Internal Revenue Code treats all financial matters foreign to the United States in a punitive and sometimes confiscatory way.

Because I live in Britain, I am required to pay taxes and assume responsibility for my financial and retirement planning here, where I live. All of my income, financial and retirement assets are foreign to the United States, but local to me. However, because I have kept my American citizenship, I am subject to the U.S. extraterritorial tax regime, making it very difficult for me to live the same kind of life that my friends and neighbours live: they are subject to only one tax system, whereas I, as a U.S. citizen, am subject to both the U.S. and the UK tax systems, which are not compatible. Most attempts at responsible financial and retirement planning where I live are frustrated by the need to comply with U.S. tax laws. This is clearly unfair. My income derives entirely from my previous salary and now my pension from the British university in which I worked and on which I have paid British taxes (which are higher than the U.S. tax rate). How can the United States justify imposing taxation on the non-U.S. income and investments of a person who is a tax resident of another country and who has not had a financial or economic connection to the United States for 45 years?

U.S. treatment of its citizens who live overseas also subjects me to constant stress and the fear of penalties should I make even non-wilful mistakes in complying with the Internal Revenue Code. IRS rules for Americans who live overseas are extremely complex, requiring preparation by professionals. I recently filed my 2020 return, on which I owed $10.00 (ten dollars). Because I have to account for all my "foreign" (*i.e.,* local to me) investments, the return was about 150 pages long and cost £1,854 (about $2,500) to prepare, which is about 7% of my U.S. taxable income.

There is no other advanced country in the world that imposes this kind of extraterritorial taxation, and it is very disheartening that, even though American emigrants and emigrant organizations have for many years written to and met with Congressional lawmakers about the problems that citizenship-based taxation causes us, no one listens. When we write about the difficulties we face, our representatives in Congress send back replies that bear no relation to our specific points and complaints. Because, and only because, I live outside the United States, my difficulties include the following:

- Difficulty in maintaining bank/financial accounts where I live:
    - FATCA has provided incentives for banks in my country to refuse to deal with U.S. citizens, and I have had to close one savings account with a good interest rate because the bank doesn't want to deal with the complexity of reporting to the IRS.
- Confiscatory taxation of non-U.S. mutual funds: the U.S. tax on them may exceed the total value of the funds.
- Being subject to U.S. tax based on phantom capital gains. Because the IRS requires me to use USD as my functional currency, I am subject to "fake income" on nothing but changes in the exchange rate: investments that actually lose money in real (pound sterling) terms may show phantom gains as a result of fluctuating exchange rates.
- Having the United States impose taxes on things that my country of residence does not.
- Having a substantial "tax credit" from the U.S. because I pay much higher taxes in the UK than I would in the U.S., but finding that the IRS will not apply this tax credit to, for example, interest paid on my UK savings accounts.
- Finding it difficult to cope with the required paperwork and records and the online FBAR form as I get older. I sometimes don't switch money out of a savings account to get better interest elsewhere because I'm afraid I won't keep track, and the IRS imposes draconian penalties for even non-wilful mistakes on the FBAR.

As a tax resident of both the United States and the UK, I get the worst of both tax systems. How can this be fair? I can't imagine the U.S. would take kindly to a foreign country taxing U.S. residents earning U.S. dollars and paying U.S. tax, simply because the person had retained their original citizenship.

I very much hope to remain a U.S. citizen until I die, as being American is part of my identity. However, I am finding it very difficult to maintain compliance with both the U.S. Internal Revenue Code and UK tax. Because of this dual tax obligation, my responsible planning for old age has been for nothing: I invested savings from my fully-taxed British salary in a UK government-recommended stocks and shares Individual Savings Account (ISA). As I am not a high net worth individual, I did not seek any specialist financial advice before doing so and consequently did not know that the U.S. would regard the mutual funds held in the ISA as PFICs and tax them in what is essentially a confiscatory way—U.S. tax will take not just the gains, but the principal. As a result, I am being forced to consider whether it is possible to retain my U.S. citizenship. No one should be forced to choose between their citizenship and the need to engage in responsible financial and retirement planning.

It is terribly unfair that I am facing this choice simply because I live outside the United States. Why should I be subject to additional requirements that resident Americans are not? I am not living in the U.S. and using services there. And how can the U.S. be happy, given its ideal of fairness and justice for all, to be the only developed country in the world to show such cavalier disregard for the well-being of its citizens who live overseas?

As I hope I have demonstrated, the U.S. extraterritorial tax system is terribly unfair, making my U.S. citizenship my biggest burden as I face old age. For many years, both individual Americans and American organizations abroad have been attempting to get both Treasury and Congress to address these issues. The United States should abandon its anomalous extraterritorial tax regime and join the rest of the world in adopting a system of *residence-based taxation.* Please fix this extreme injustice and show that you care for ALL Americans, no matter where they live.

Letter Submitted by Elizabeth Holt

U.S. Senate
Committee on Finance

To whom it may concern:

I am a proud American citizen who lives outside the United States. To be clear: I am an individual. I am not a corporation. I am not a multinational. I did not move from the United States to avoid paying U.S. taxes. But, by moving from the United States, I am automatically subject to the U.S. Extraterritorial tax regime—a regime that imposes more punitive taxation and reporting on Americans living abroad—than is imposed on American residents. This is because the Internal Revenue Code treats all things foreign to the United States punitively.

I moved from the United States to care for my elderly mother who had several health issues and lived alone. Her health trials lasted for 3 years until the end of her life, after which as Executor of her Estate, it was easier to remain in Canada to deal with them. I ended up remaining here and retiring, to be near family. In fact, I am a full tax resident of the country where I live. But, because I actually live in CANADA, I am required to pay taxes and assume responsibility for my financial and retirement planning here, where I live. My income, financial and retirement assets are foreign to the United States, but are local to me. Because my income and financial assets, although local to me, are foreign to the United States I am subject to the U.S. Extraterritorial tax regime. As such, I am subject to constant stress and fear of penalties should I make mistakes in complying with the Internal Revenue Code. Furthermore, I find it very difficult to find competent professional help. The help I can find is very expensive (often costing more than $500 a year).

I know that you will find it difficult to relate to this. However, because and only because, I live outside the United States, my difficulties include the following:

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- Being able to participate in non-U.S. pensions and still get the benefits of tax deferral available to my neighbors.

- Taxation on the sale of my principal residence which is not taxed in the country where I live.
- Difficulty in carrying on a business. It is normal for people in my country to carry on business through small business corporations—which are taxed punitively by the IRS (GILTI).
- Having the retirement savings in my corporation effectively confiscated by the 965 Transition Tax.
- Being subject to income based on phantom capital gains. (Because I required to live my life tethered to the U.S. dollar, fluctuations in the exchange rate can result in unexpected fake income).

To be clear, I am and will always be a proud American. But, I find it very difficult to maintain compliance with both the U.S. Internal Revenue Code and the tax code of my country of residence. Because of this dual tax obligation, I am finding it very difficult to save and invest for retirement. What one country gives, the other country takes. The necessity of complying with both tax regimes means that I get the worst of each tax regime. As a result, I feel that I am being forced to consider whether it is possible to retain my U.S. citizenship. No proud American should be forced to choose between his cherished U.S. citizenship and the need to engage in responsible financial/retirement planning.

It is terribly unfair, that because I live outside the United States, that I am forced to choose between my responsibilities to plan for retirement and my responsibilities under the Internal Revenue Code. Why should I be subject to additional requirements that resident Americans are not? I am not living in the United States and using services in the United States. I have even been denied a COVID–19 vaccine from the U.S. Government (because I don't live in the United States) while being required to pay taxes to the United States!

The U.S. Extraterritorial tax system is terribly unfair.

A great American writer, the late Pat Conroy, began his book "The Prince of Tides" with the words: "My wound is geography. It is also my anchorage, my port of call."

Although, my U.S. citizenship is my anchorage and my port of call. The unfair U.S. extraterritorial tax regime—triggered by my geography—is most definitely my wound.

Please fix this extreme injustice!

Thank you,

Elizabeth Holt

LETTER SUBMITTED BY NICHOLAS MATTHEW LEE

U.S. Senate
Committee on Finance

Cc: U.S. Representative Madeline Dean (PA 4th District)
U.S. Senator Bob Casey Jr. (PA)
U.S. Senator Pat Toomey (PA)

Dear Senators,

I am writing to you as an individual U.S. citizen, concerned about inequalities that are created and perpetuated by a lack of empathy, understanding, and tolerance for Americans that reside overseas. While you may take the position that this is "yet another expat rights" letter, I can assure you that it is not. Emigrant rights are another facet of equality between races and nationalities. Furthermore, some of the negative impacts of the U.S. extraterritorial tax regime specifically discourage full economic participation by Non-Resident Alien spouses of U.S. citizens.

There is abundant literature asserting that the United States subjects its overseas citizens to a separate, but more punitive tax system in comparison to resident citizens and nonresident aliens. In this comment, I will avoid discussing the full extent of this, and I will instead focus on specific issues that related to "mixed" couples and tax "baggage" that is likely to only affect immigrants and U.S. citizens that are a bit "foreign."

Penalties against U.S. citizens with non-resident alien spouses

Consider two couples, both living outside the United States. One couple is "fully American," with both spouses being U.S. citizens. Another is a biracial couple, with one being from a foreign land and the other being a born-and-raised U.S. citizen.

What is apparent is that the tax code penalizes the mixed couple in situations that are viewed with complete unquestioning trust with the "full American" couple. Listing some of these situations out:

- The fully American couple will be "Married Filing Jointly," enjoying tax treatment that is largely similar to if they were both single. The mixed couple will be forced to have the U.S. citizen spouse "Married Filing Separately"—a penalized position with lesser deductions and allowances, or they can be "Married Filing Jointly," in which case the foreign spouse is excluded from the financial system of the country they live in and subject to taxation by a country they may have never lived in and whose passport they do not carry.
- There is a limit of $159,000 of tax free property transfers each year from one spouse to another if it is a mixed couple, rather than a fully American couple.
- While a fully American couple benefits from an unlimited marital deduction in the unfortunate event of one spouse dying, the mixed couple may encounter estate taxes that the fully American couple is not subject to. This is due to the unlimited marital deduction not applying to mixed couples.

Discouraging financial participation by NRA spouses

Because of Community Property rules, there are circumstances in which a Nonresident Alien Spouse, even Married Filing Separate, is "contaminated" by U.S. tax status. Due to FATCA, it is not uncommon for foreign banks, investment firms, and other financial institutions to deny spouses of U.S. persons access to necessary services. At the same time, those NRA spouses are denied access to the U.S. financial system due to their non-residence.

This is worsened by the Controlled Foreign Corporation and GILTI rules, which have created the need for many small businesses to remove partners that may have indirect ties through a U.S. spouse, or for spouses to rid themselves of a business that became partly owned by U.S. persons through community property rules.

Tax provisions that disproportionately affect immigrants and emigrants

The U.S. tax code takes a distinctly punitive view towards foreign retirement accounts that are not subject to the treaty benefits, often causing individuals to incur significant accounting and tax costs due to IRS 8621 form preparation and the associated PFIC tax regime.

When considering who is likely to hold a foreign pension—immigrants to the United States and non-resident U.S. citizens, we see a clear pattern. Those who are of a "foreign race" are subjected to a punitive treatment of illiquid accounts that are owned due to having lived and worked in another land. Had they been "proper" Americans, they would have lived and worked their whole lives in the U.S., where accounts would cleanly fit into the Traditional IRA, Roth IRA, 401k taxonomy. This punitive treatment lies in the racist assumption that there is *zero* legitimate reason for someone to have foreign finances—clearly, it must be suspicious and part of an elaborate scheme.

We see similar penalization when considering the Windfall Elimination Provision, which may penalize Americans for having lived and worked in another country at any point in their lives. Again, a penalty that never affects a "pure" American that has never resided outside of the United States.

A call to action

While these adverse effects of the U.S. tax code are not intended in any way that is overtly racist, the reality is that the U.S. tax code has a separate and more punitive tax treatment for most situations that are "foreign" as opposed to "American."

These provisions by and large affect immigrants to the U.S., having "financial baggage" from their life before the U.S., and emigrants and spouses of emigrants, who are subject to America's unique extraterritorial tax code.

The lack of movement on this issue, despite years of pleas for help, goes back to the aforementioned undertone. These people aren't *really* American. They're a *bit foreign,* and we should treat them with suspicion, and their issues with apathy.

I urge you to consider the inequality imposed by the tax code's failure to consider legitimate reasons for a U.S. person to have foreign finances, and to adopt measures to mitigate this.

Alternately, consider adopting Residence Based Taxation like the rest of the world, which would eliminate much of the discrimination that the tax code inflicts on U.S. citizens and their spouses.

LETTER SUBMITTED BY DAVID MOSKOWITZ

To: Senate Committee on Finance

I can't tell you how disappointing it is to watch and hear no mention of how the tax law impacts citizens living abroad, and how unjust it treats us. There is a very clear geographic disparity, which is something you need to address.

I am an American citizen, who has lived abroad for more than 20 years. I decided to move abroad when I was 25, to see the world and experience life outside of the United States. Initially, I lived in Japan for 12 years, learned the language, and eventually started my own business. In 2009, I moved to Singapore, got married and started up a few more businesses over the years.

I did not move abroad or set up a business abroad to avoid taxes. However, the tax laws and other compliance rules are a massive burden. After the passage of the TCJA, it is now difficult as an American to compete globally, as I am now taxed as if my company was located in and selling to people in the U.S. The solution to this is to sell my ownership in the business. It's simply not worth the headache and the potential tax burden, as I could be taxed for income that I will never receive.

The current tax laws also punish citizens living outside of the U.S. for investing in retirement plans, ETFs or other investment vehicles in their country of resident. I can't effectively save without worrying about complex tax and compliance implications such as PFICs.

Foreigners investing the U.S. stock market are treated better than the U.S. treats its own citizens abroad. Foreigners pay no U.S. capital gains tax on U.S. shares, but I will still owe capital gains in the U.S. on any investments in the country which I am actually a resident.

As a homeowner with my wife, from what I understand, when we sell the property, although no tax may be due in Singapore, I may owe taxes in to the U.S.! Additionally, if the currency rate changes, even if we make no gain on the property, I could actually owe money to the U.S. in phantom currency gains.

Paying a professional to help navigate this minefield has costs me thousands of dollars, with very little in actual tax due to the U.S.

The current tax system is incredibly unfair to American citizens who live abroad. The simplest solution is to follow what the rest of the world does, residency-based taxation.

Please for once, consider us when creating your new tax policies.

Sincerely,

David Moskowitz

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Statement of Chad Hooper, Executive Director

Dear Chairman Wyden, Ranking Member Crapo, and Members of the Committee:

On behalf of the Professional Managers Association—the non-profit professional association that has since 1981 represented professional managers, management officials, and non-bargaining unit employees at the Internal Revenue Service (IRS)—I write to provide a written statement for the record for the April 20, 2021 hearing on "Combating Inequality: The Tax Code and Racial, Ethnic, and Gender Disparities."

We appreciate the Committee for elevating issues of diversity and inclusivity within our tax system. As IRS leaders, PMA is committed to ensuring our workforce is equipped to maintain the equitable delivery of taxpayer services. This means having a workforce that reflects the diversity of our nation and the resources to enforce our tax laws at all income levels.

I. Congress must conduct necessary oversight to ensure the IRS provides leadership opportunities to diverse populations and is conscious of equity issues impacting taxpayers.

PMA immediately applauded[1] President Biden's swift action to rescind the last administration's memorandums halting diversity and inclusion training. These trainings are critical to the IRS's commitment to being an equal opportunity employer and ability to ensure the equitable delivery of taxpayer services.

Even before the White House memos,[2] IRS leadership was hesitant to offer employees Equity, Diversity, and Inclusivity (EDI) training, whether on a voluntary or compulsory basis. PMA has approached leadership about introducing EDI trainings based on staff interest. Political leadership showed little interest in additional trainings and refused to meet with PMA on the issue.

Since President Biden's orders restoring EDI trainings, we are grateful to the IRS for its work in restoring the IRS curriculum and for using this as an opportunity to refresh and update its content.

Speaking about difficult issues like racism is not comfortable. It is difficult. It does not come naturally. Doing so requires grace and understanding that comes from training and experience. PMA has sought avenues to address equity and diversity issues within our Association and it is with a heavy heart I must admit we have had to expel several members due to blatantly racist messages communicated over government email.

For example, following a member-wide message on the importance of diversity after the death of George Floyd, a white GS–14-equivalent frontline manager argued in an email to PMA that "the first slaved, not indentured servants, were white" and that they had "read firsthand accounts of white men who were put into slavery for life in Delaware, Maryland, North Carolina, and Virginia." This is the same individual who said the Boston Tea Party was a terrorist act and that "even today, [they] hate the British." Not only is this statement a clear EEO violation for reflecting discrimination based on national origin, but it highlights a misunderstanding regarding the role and impact of slavery by using a few, select stories of white oppression to justify the denial of hundreds of years of the legal enslavement, disenfranchisement, and segregation imposed on black Americans.

Another Executive Officer within the IRS vocally opposed the recognition of Juneteenth in an email to PMA, arguing that recognition of this holiday would require the recognition of women's suffrage or the Holocaust. "This could go on and on," the Executive cautioned.

The IRS employees who felt it was appropriate to send these hateful messages over their official work email for the United States Government are in critical roles affecting millions of taxpayers.

This is a documented problem throughout our federal workforce. In September 2020, the Merit Systems Protection Board (MSPB) reported, "African American and Hispanic employees were less likely to say that their agency did a good job of either recruiting or retaining a diverse workforce. They were also more likely than White employees to say that they had not been treated fairly in terms of career advancement, awards, training, performance appraisals, job assignments, discipline, and pay. Finally, they were more likely to say that they had been denied a job, promotion, pay increase, or other job benefit within the past 2 years because they had been discriminated against based on race."

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[1] *https://mailchi.mp/7db9647c086b/pma-statement-on-president-bidens-day-one-action-on-covid-19-diversity-training?e=%5bUNIQID%5d.*

[2] Training in the Federal Government, M–20–34, Office of Management and Budget, September 4, 2020; *https://www.whitehouse.gov/wp-content/uploads/2020/09/M-20-34.pdf;* Ending Employee Trainings That Use Divisive Propaganda to Undermine the Principle of Fair and Equal Treatment for All, M–20–37, Office of Management and Budget, September 28, 2020; *https://www.whitehouse.gov/wp-content/uploads/2020/09/M-20-37.pdf;* Mandatory Review of Employee Training under E.O. 13950, September 22, 2020; *https://www.chcoc.gov/content/mandatory-review-employee-training-under-eo-13950-september-22-2020.*

The MSPB described the survey results regarding disparate treatment based on race "strikingly consistent," with African American and Hispanic employees continually agreeing that people of color within our federal workforce are being subjected to higher standard and being passed over for supervisory positions.

The IRS workforce has steadily increased in diversity over time. In a March 2021 annual report,[3] the IRS provided the following total workforce distribution by racial and ethnic origin and gender for FY 2020:

- White—49.11%
- Black—28.84%
- Hispanic—14.05%
- Asian—6.53%
- American Indian or Alaska Native—0.83%
- Native Hawaiian or Pacific Islander—0.19%

- Male—34.83%
- Female—65.17%

Unfortunately, IRS leadership does not reflect the diversity of its workforce. In FY 2020, the IRS reports the following distribution of members of the Senior Executive Service (SES) by racial and ethnic origin and gender:

- White—65.9%
- Black—23%
- Hispanic—5.8%
- Asian—4.2%

- Male—54.4%
- Female—45.6%

Oversight is necessary to ensure IRS leadership is taking an active role in addressing barriers to the advancement for women and people of color within the Service. The failure to ensure a diverse cadre of employees rise to leadership levels has a direct impact on taxpayer services.

PMA learned in February 2020 that, despite mandates under both Title VI of the Civil Rights Act of 1964 and Executive Order 13166[4] prohibiting discrimination based on national origin and requiring federal agencies to provide individuals with limited English proficiency "meaningful access to program benefits and services conducted or funded by the federal government," as well as the reality that over 67 million American have a primary language other than English in their home, the IRS was neglecting to provide multi-lingual telephone support to domestic taxpayers. Instead, according to the EDI office's own admission to PMA, the IRS was engaging in civil rights settlements with these individuals, allowing the Service to quietly continue failing to provide equal access to taxpayer services.

It was likely no single "racist" individual's decision to fail to provide non-English speaking Americans with taxpayer assistance services. Rather, an unconscious bias toward English speakers and a lack of diverse voices at the Service's decision-making tables allowed this inequity to exist. Thankfully, and to the Service's credit, this issue has been addressed and the IRS now provides multi-lingual telephone support for domestic taxpayers as required by law.

This example demonstrates that positive and rapid change is possible when pressure is placed on leadership to elevate issues of diversity and equity. It also illustrates the necessity of ensuring diverse voices are heard within the IRS and each IRS leader is trained in diversity, equity, inclusion, and accessibility issues.

II. Congress must ensure the IRS is equipped with the resources and mission clarity to equally enforce our tax laws against all violators at any income levels.

PMA appreciates several members of the Committee for identifying the manner in which resource constraints impact equity issues within the Service. We echo the sentiments of several witnesses emphasizing the need for greater enforcement funding to rectify racially discriminatory audit rates. We do not support the IRS being tasked with collecting race-related data in addition to the agency's current work. Instead, PMA supports increased access for the IRS to existing datasets collected by other agencies. For example, the IRS can sort its enforcement data by ZIP code or

[3] *https://www.irs.gov/pub/irs-pdf/p5465.pdf.*
[4] *https://www.justice.gov/crt/executive-order-13166.*

Census tract to root out racial disparities in its actions. By leveraging information already in the hands of our federal government, we can be sure that the data are accurate, collected in an efficient manner, and avoid duplication of work across the Executive branch.

In the last decade,[5] the IRS has lost over 20,000 full-time equivalent positions and had its funding slashed by over $2 billion. These cuts have dramatically diminished[6] enforcement capabilities within the IRS, according to the Congressional Budget Office (CBO).

The result is that IRS employees, with limited resources and support, audit taxpayers with simpler, easier to audit returns. These taxpayers tend to be low income and tend to receive the Earned Income Tax Credit (EITC). They also tend to be people of color. Meanwhile, high-income earners with complex tax returns are infrequently audited due to a lack of time and resources.

While the IRS does sponsor a program to provide free legal assistance to low-income taxpayers, in Mississippi, the state with the highest audit rate in the country, ProPublica[7] discovered in 2019 that there was only one attorney for the program in the entire state.

This legal assistance program is just one example of a well-intentioned program meant to assist those in need that has failed its taxpayers due to a lack of funding and oversight by Congress.

Adequately funding the enforcement functions of the IRS will allow the Service to refocus efforts on those most negatively impacting our tax system. Economic analysis published in November 2020[8] reflects that investing $100 billion over the next decade in IRS technology, data, and personnel would allow the agency to collect up to $1.4 trillion in unpaid tax revenue. Funding the IRS is both equitable and efficient.

III. Conclusion

It is our hope you can understand that racism is a real and true problem within the civil service, both on an individual and systemic level. Black, indigenous, and/or people of color (BIPOC) managers and BIPOC candidates to join the Senior Executive Service have approached PMA as an anonymous group to share their stories of discrimination. Many are too afraid for their careers to make formal reports.

PMA feels it is necessary for Congress to provide oversight on internal equity issues and ensure the IRS is taking an active role in diversifying its leadership ranks. In the event of continued leadership resistance to offering voluntary or compulsory anti-racist leadership and anti-bias training, we encourage Congress to act so all employees have the opportunity to be trained on EDI issues. Congress must also appropriately fund the IRS to allow the Service to rectify longstanding inequities in our practices and refocus enforcement efforts as necessary.

Thank you for your consideration of PMA's views on this critical topic. Please do not hesitate to contact PMA's Washington Representative Jason Briefel (jbriefel@shawbransford.com) if the association can be of any assistance to you on this matter.

Sincerely,

Chad Hooper
Executive Director
Professional Managers Association

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May 4, 2021

U.S. Senate
Committee on Finance

[5] *https://www.irs.gov/statistics/irs-budget-and-workforce.*
[6] *https://www.cbo.gov/system/files/2020-07/56422-CBO-IRS-enforcement.pdf.*
[7] *https://projects.propublica.org/graphics/eitc-audit.*
[8] *https://www.taxnotes.com/featured-analysis/shrinking-tax-gap-comprehensive-approach/2020/11/25/2d7ht.*

219 Dirksen Senate Office Building
Washington, DC 20510

Re: Hearing on "Combating Inequality: The Tax Code and Racial, Ethnic, and Gender Disparities"

Chairman Wyden, Ranking Member Crapo and Honorable Committee Members:

On behalf of more than 500,000 members and supporters of Public Citizen nationwide, we thank you for holding this timely session and respectfully offer the following comments to the record for the hearing entitled "Combating Inequality: The Tax Code and Racial, Ethnic, and Gender Disparities."

During a global pandemic when many Americans are enduring mass suffering—hundreds of thousands of deaths, millions of jobs lost, and shuttered businesses across the nation—the very rich, Wall Street and some corporations' financial health is better than ever. What's more, the collective wealth of billionaires increased by $1.6 trillion [1] since March 2020—the start of the pandemic. This basic unfairness is deepened when looked at through the lens of racial injustice.

The ramifications of racial inequality are deeply embedded in our nation's fabric and can be traced to early origins of this country's inception. Slaves forcibly transported against their will from Africa served as collateral for the nation's first mortgages and literally and figuratively laid the building blocks for what is known as "Wall Street" and the global financial market at large.[2] And, the first bond market was backed by Black enslaved human beings.[3] The U.S. must confront this unconscionable underpinning of our financial system.

Furthermore, due to years of discriminatory policies that upheld systemic racism, the wealth of white families is ten times that of Black families—the wealth of white families is on average around $171,000, while the wealth of a typical Black family is only $17,150.[4] Factors such as redlining, mass incarceration, decline in union jobs, and racially-biased employment practices have denied many African Americans access to the "American Dream."

Moreover, studies show that racial inequality is manifested in our tax code.[5] For example, because wealthy families are disproportionately white, and a large portion of the giveaways in the 2017 tax law went to the wealthy, according to a study from Prosperity Now and the Institute on Taxation and Economic Policy, of the nearly $275 billion of giveaways in the 2017 tax law, around 80% ($218 billion) went to white households.

Unfortunately, the racial inequities around Wall Street trading persist. Around half of the population owns no stock market wealth at all, even indirectly. And among households of color, the share is even smaller. As a result of public policies that systematically excluded Black, Latinx, and other families of color from wealth-building opportunities that benefit white families, only around one third of Black and one quarter of Latinx families owned any stock at all in 2019.[6]

IRS enforcement is another way that racial inequities are felt in the tax code. The wealthy are responsible for 70% of the underreporting in taxable income yet we see the IRS auditing lower income Americans at the about same level as the top 1%.[7] It is particularly galling that areas with the high-audit rate in majority-Black communities.[8]

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[1] Chuck Collins, *Inequality.Org,* Updates: Billionaire Wealth, U.S. Job Losses and Pandemic Profiteers (April 2021), *https://tinyurl.com/32wyvzyk.*

[2] Pedro Nicolaci da Costa, "America's First Bond Market Was Backed By Enslaved Human Beings," *Forbes* (September 1, 2019), *https://tinyurl.com/ffxx3w65.*

[3] *Id.*

[4] Jenice R. Robinson, "Institute on Taxation and Economic Policy Report, Adequately Funding the IRS Would Be One Small Step Toward Racial Equity in the Tax Code" (July 2021), *https://tinyurl.com/9fv67bdv.*

[5] Dorothy Brown, *The Whiteness of Wealth: How the Tax System Impoverishes Black Americans—And How We Can Fix It* (Penguin Random House 2021).

[6] Neil Bhutta et al, "Disparities in Wealth by Race and Ethnicity in the 2019 Survey of Consumer Finances", Board of Governors of the Federal Reserve, *FEDS Notes,* September 28, 2020, *https://bit.ly/32hwAnD.*

[7] Paul Kiel, "It's Getting Worse: The IRS Now Audits Poor Americans at About the Same Rate as the Top 1%," ProPublica (May 30, 2019), *https://tinyurl.com/ns8pb8bv.*

[8] Paul Kiel and Hannah Fresques, "Where in the U.S. Are You Most Likely to Be Audited by the IRS?", ProPublica (April 1, 2019) *https://bit.ly/3vKn7lh.*

To address these racial inequities in the implementation of our tax code, we suggest policies that will require the wealthy, Wall Street, and profitable corporations to pay their fair share. Increasing the corporate tax rate, the top rate on individuals and pursuing a Millionaires Surtax or Ultra-Millionaire Tax along with policies that address accumulations of wealth (such as a strengthened estate tax and ending stepped-up basis for wealth gains that accrue over time) will help ensure that wealthy families, that are predominately made up of white individuals, will pay more of their fair share. Similarly, a tax on financial transactions such as stock, bond, and derivative trades would help address the inequities in ownership of stock wealth by race. And, tax cheats must be made to follow the law. We urge Congress to not only increase mandatory and discretionary funding for the IRS, but also to set audit levels in law that would require significant increases in the percentages of large corporations and the wealthy that would be audited.

Public Citizen looks forward to working with the committee to enact policies that unrig our tax code and reinvest in all American communities to create a fairer society.

Thank you for the opportunity to submit this statement for the record. For questions, please email sharley@citizen.org or rstewart@citizen.org.

Sincerely,

Susan Harley
Managing Director
Public Citizen's Congress Watch division

Robert L. Stewart
Tax and Disclosure Advocate
Public Citizen's Congress Watch division

STOP EXTRATERRITORIAL AMERICAN TAXATION (SEAT)

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U.S. Senate
Committee on Finance

April 29, 2021

Please accept this as our submission with respect to the subject of the April 20, 2021 Senate Finance Committee Hearing: "Combating Inequality: The Tax Code and Racial, Ethnic, and Gender Disparities."

The title to this hearing acknowledges that the United States Tax Code has different impacts upon different people based upon race, ethnicity, and gender. This list, however, leaves out at least one additional critical factor. Senator Crapo himself refers to that factor in his statement: **geography.**

Senator Crapo is correct: the tax code (sometimes by accident and sometimes by design) does lead to differing impacts based on where an individual—who is a citizen or resident of the United States—lives. Generally, the United States has one tax system for U.S. citizens who live inside the geographical borders of the United States. The United States operates a separate and more punitive "Extraterritorial Tax System" for U.S. citizens (and Green Card holders) living outside the geographical borders of the United States.

The "Extraterritorial Tax System" is not a secret: it has been explained well by a multitude of observers.[1] This punitive regime affects persons of all races (including African-Americans[2]), genders, and ages. Its sole factor for discrimination is geography—the mere fact of living outside the United States coupled with having income, assets and/or financial accounts outside the United States.

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[1] *An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018,* Pub. L. 115–97. Known colloquially as The Tax Cuts and Jobs Act (TCJA).

[2] Laura Snyder, "Taxing the American Emigrant," 74 *Tax Law.* 299, 313–17 (2021), available at SSRN: *https://ssrn.com/abstract=3795480.*

When U.S. citizens move from the United States and become tax residents of another country, they are subject to a U.S. tax regime that is more complex, punitive and penalty laden than are U.S. residents. To compound matters, the taxation of Americans abroad varies depending on where they actually live. For example, U.S. citizens living in Canada are subject to a different set of U.S. tax rules than U.S. citizens living in Israel.

Indeed, the Senate Finance Committee recognized this problem at least as early as 2015. That is when the Senate Finance Committee Bipartisan Tax Working Group[3] on International Tax concluded their report with the following paragraphs:

> According to working group submissions, there are currently 7.6 million American citizens living outside of the United States. Of the 347 submissions made to the international working group, nearly three-quarters dealt with the international taxation of individuals, mainly focusing on citizenship-based taxation, the Foreign Account Tax Compliance Act (FATCA), and the Report of Foreign Bank and Financial Accounts (FBAR).
>
> While the co-chairs were not able to produce a comprehensive plan to overhaul the taxation of individual Americans living overseas within the time-constraints placed on the working group, the co-chairs urge the Chairman and Ranking Member to carefully consider the concerns articulated in the submissions moving forward.

Six years have passed and there is still no movement on overhauling the taxation of individual Americans living overseas, in spite of the clear directive from the International Tax Working Group. In fact, the situation for Americans abroad has gotten far worse. This is due in large part to the enhancements to the Subpart F regime in TCJA.[1] We informed the Senate Finance Committee in that regard in our submission dated April 22, 2021, available here.[4]

As stated above, Senator Crapo was correct in acknowledging that the U.S. tax code leads to differing impacts across geography. Further, he was also correct to point this out together with the other factors of race, gender, and age. This is because Americans living overseas are the victims of prejudice—and the victims of prejudicial taxation policies—in a manner that is closely akin to the prejudice—and prejudicial policies—to which many other Americans are victim as a result of racism, sexism, and ageism. Researchers refer to this prejudice with a variety of names, including "placism," as well as "prejudice of place," "blemish of place," "spatial taint," "stigma of place," and "territorial stigmatization."[2]

Former Senator Max Baucus—one of Senator Wyden's predecessors as Chair of the Senate Finance Committee—was not immune to this prejudice. In 1995, he stated:

> [Americans] are going to great lengths, thousands of miles to other countries, to avoid paying their fair share. In a metaphorical sense, burning the flag, giving up what should be their most sacred possession, their American citizenship, to find a tax loophole. . . . These are precisely the sort of greedy, unpatriotic people that FDR called malefactors of great wealth. . . . Let us not allow more of these rich freeloaders to get away.[5]

This comment, alongside many others expressed by other members of the United States Congress dating back to the Civil War right up to today,[6] expose longstanding and deep-seated prejudices against Americans who live outside the United States. Is it any wonder that these prejudices have been translated into extraterritorial taxation and banking policies that are highly damaging to Americans and green card holders living outside the United States?

It is well past the time that the Senate Finance Committee act upon the call of the 2015 Senate Finance Committee Bipartisan Tax Working Group on International Tax, and finally accord to Americans living outside the United States the full attention, concern, and respect to which they are entitled as U.S. citizens. It is also well

[3] *https://www.finance.senate.gov/chairmans-news/finance-committee-bipartisan-tax-working-group-reports.*

[4] *http://seatnow.org/wp-content/uploads/2021/04/SEAT-Submission-Overhauling-International-Taxation.pdf.*

[5] 3 Senate Committee on Finance, Tax Treatment of Expatriated Citizens: Hearing on S. 453, S. 700, H.R. 831, H.R. 981, H.R. 1535 and H.R. 1812, 104th Cong. 2 (July 11, 1995), *https://www.finance.senate.gov/imo/media/doc/Hrg104-795.pdf* *[https://perma.cc/7LDH-XW26]* (statement of Sen. Max Baucus).

[6] Laura Snyder, "Taxing the American Emigrant," at 317–20.

past time to put an end to the taxation and banking policies that penalize them so severely.

The best solution to this problem is for the United States to come into alignment with every other developed nation on the planet and **move to a residence-based taxation system for individuals.** Taxing non-resident citizens is "Mission Impossible," as it is impossible to fairly administer an extraterritorial tax system and afford non-resident U.S. citizens the rights guaranteed by the Taxpayer Bill of Rights (IRC § 7803(a)(3)), by multiple human rights instruments and by the U.S. Constitution.[7]

Thank you for your attention to these matters.

Respectfully submitted by:

Stop Extraterritorial American Taxation (SEAT) Board Members (info@seatnow.org):

Dr. Laura Snyder (President)
Dr. Karen Alpert
Suzanne Herman
David Johnstone
Keith Redmond
John Richardson

LETTER SUBMITTED BY RONALD WALTHER

U.S. Senate
Committee on Finance

I am a proud American citizen who lives outside the United States. To be clear: I am an individual. I am not a corporation. I am not a multinational. I did not move from the United States to avoid paying U.S. taxes. But, by moving from the United States, I am automatically subject to the U.S. Extraterritorial tax regime—a regime that imposes more punitive taxation and reporting on Americans living abroad—than is imposed on American residents. This is because the Internal Revenue Code treats all things foreign to the United States punitively.

I moved from the United States because my parents returned to their homeland. In fact, am a full tax resident the country where I live. But, because I actually live and work in Germany. I am required to pay taxes and assume responsibility for my financial and retirement planning here, where I live. My income, financial and retirement assets are foreign to the United States, but are local to me. Because my income and financial assets, although local to me, are foreign to the United States I am subject to the U.S. Extraterritorial tax regime. As such, I am subject to constant stress and fear of penalties should I make mistakes in complying with the Internal Revenue Code. Furthermore, I find it very difficult to find competent professional help. The help I can find is very expensive (often costing more than $500 a year).

I know that you will find it difficult to relate to this. However, because and only because, I live outside the United States, my difficulties include the following:

- Difficulty in maintaining bank/financial accounts where I live:
    - FATCA has provided incentives for banks in my country to refuse to deal with U.S. citizens.
- Punitive Taxation on non-U.S. mutual funds.
- Being able to participate in non-U.S. pensions and still get the benefits of tax deferral available to my neighbours.
- Taxation on the sale of my principal residence which is not taxed in the country where I live.
- Difficulty in carrying on a business. It is normal for people in my country to carry on business through small business corporations—which are taxed punitively by the IRS (GILTI).

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[7] Laura Snyder, Karen Alpert, and John Richardson, "Mission Impossible: Extraterritorial Taxation and the IRS," 170 *Tax Notes Federal* 1827 (March 22, 2021), available at SSRN: *https://ssrn.com/abstract=3828673.*

- Having the retirement savings in my corporation effectively confiscated by the 965 Transition Tax.
- Being subject to income based on phantom capital gains. (Because I am required to live my life tethered to the U.S. dollar, fluctuations in the exchange rate can result in unexpected fake income).

To be clear, I am and will always be a proud American. But, I find it very difficult to maintain compliance with both the U.S. Internal Revenue Code and the tax code of my country of residence. Because of this dual tax obligation, I am finding it very difficult to save and invest for retirement. What one country gives, the other country takes. The necessity of complying with both tax regimes means that I get the worst of each tax regime. As a result, I feel that I am being forced to consider whether it is possible to retain my U.S. citizenship. No proud American should be forced to choose between his cherished U.S. citizenship and the need to engage in responsible financial/retirement planning.

It is terribly unfair, that because I live outside the United States, that I am forced to choose between my responsibilities to plan for retirement and my responsibilities under the Internal Revenue Code. Why should I be subject to additional requirements that resident Americans are not? I am not living in the United States and using services in the United States. I have even been denied a COVID–19 vaccine from the U.S. Government (because I don't live in the United States) while being required to pay taxes to the United States!

The U.S. Extraterritorial tax system is terribly unfair.

A great American writer, the late Pat Conroy, began his book "The Prince of Tides" with the words: "My wound is geography. It is also my anchorage, my port of call."

Although, my U.S. citizenship is my anchorage and my port of call. The unfair U.S. extraterritorial tax regime—triggered by my geography—is most definitely my wound.

Please fix this extreme injustice!

Letter Submitted by Susan P. Williams

U.S. Senate
Committee on Finance

I am a proud American citizen who lives outside the United States. To be clear: I am an individual. I am not a corporation. I am not a multinational. I did not move from the United States to avoid paying U.S. taxes. But, by moving from the United States, I am automatically subject to the U.S. Extraterritorial tax regime—a regime that imposes more punitive taxation and reporting on Americans living abroad—than is imposed on American residents. This is because the Internal Revenue Code treats all things foreign to the United States punitively.

I moved from the United States because I fell in love with a Welshman. We married and settled in Wales in 1981. I am a full tax resident in the UK, the country where I live. Because I have lived and worked in the UK for 40 years, I have been required to pay taxes and assume responsibility for my financial and retirement planning here, where I live. My income, financial and retirement assets are foreign to the United States, but are local to me. Because my income and financial assets, although local to me, are foreign to the United States I am subject to the U.S. Extraterritorial tax regime. As such, I am subject to constant stress and fear of penalties should I make mistakes in complying with the Internal Revenue Code. Furthermore, I find it very difficult to find competent professional help. The help I can find is very expensive and I am living on a modest retirement pension. The last time I had assistance to complete my tax return was in 2018 and the cost was €1,000 (approx. $1,450). As my annual income is only €18,000 this represents a huge portion of my income, and I have not been able to afford assistance since that time.

I know that you will find it difficult to relate to this. However, because and only because, I live outside the United States, my difficulties include the following:

- Difficulty in maintaining bank/financial accounts where I live:
    - FATCA has provided incentives for banks in my country to refuse to deal with US citizens. I live in fear that I will lose banking services here where I live.

- Punitive Taxation on non-US mutual funds. I have made investments in Mutual funds here in the UK, *where I live*, as many people do. I did this years ago, and have since discovered I will have to forfeit much of their value when I cash them in. My American relatives who live in the United States also have Mutual Funds but are not subject to the awful PFIC rules.
- Being able to participate in non-U.S. pensions and still get the benefits of tax deferral available to my American relatives residing in the United States.
- Taxation on the sale of my principal residence which is not taxed in the country where I live.
- Being subject to income based on phantom capital gains. (Because I am required to live my life tethered to the U.S. dollar, fluctuations in the exchange rate can result in unexpected fake income)
- The inability to have a bank account in the United States. This is denied to people who do not live in the United States.
- The inability to open an IRS account—this cannot be done without a cell phone registered to a U.S. address. As I live in the UK I do not have a U.S. address.
- The inability to receive payments from the IRS into my bank account. This is because the IRS will not make payments to "foreign" bank accounts, and, as stated above, I am unable to open a U.S. bank account.
- The inability to open a U.S. social security online account. This is not possible when living outside of the United States.
- The ability to contact the IRS by phone without incurring a large phone bill. There is no toll-number available to people telephoning from outside the United States.

To be clear, I am and will always be a proud American. But, I find it very difficult to maintain compliance with both the U.S. Internal Revenue Code and the tax code of my country of residence. Because of this dual tax obligation, I am finding it very difficult to save and invest for retirement. What one country gives, the other country takes. The necessity of complying with both tax regimes means that I get the worst of each tax regime. As a result, I feel that I am being forced to consider whether it is possible to retain my U.S. citizenship. No proud American should be forced to choose between his cherished U.S. citizenship and the need to engage in responsible financial/retirement planning. It makes me feel quite sick to consider giving up my U.S. nationality, but if things go much further my hand will be forced. How can anyone function if banking services are denied to them?

It is terribly unfair, that because I live outside the United States, that I am forced to choose between my responsibilities to plan for retirement and my responsibilities under the Internal Revenue Code. Why should I be subject to additional requirements that resident Americans are not? I am not living in the United States and using services in the United States. I have even been denied a COVID–19 vaccine from the U.S. Government (because I don't live in the United States) while being required to pay taxes to the United States!

The U.S. Extraterritorial tax system is terribly unfair.

Many people take the view that I have "chosen" to live outside the USA and so should bear the consequences. Actually, I am in a "mixed marriage" and if my husband I choose to live together, then at least one of us must live in a "foreign" country. In my case, it is me!

Please help!

Susan P. Williams

LETTER SUBMITTED BY GENELLE WINDSOR

- CBT (Citizen Based taxation) The U.S. requires that its citizens fill out tax returns and pay tax if they live outside of the U.S.
- Americans living outside of the U.S. are required to fill in tax returns and FBAR financial reporting.
- FATCA is introduced to require banks outside of the U.S. to report the bank details of accounts held by Americans. This includes Americans who are residents and tax payers in countries outside of the U.S.

- The banks are fined if they do not report on accounts of Americans or if they report incorrectly.
- The banks outside of the U.S. decide that they do not want to pay large fines for mistakes in reporting.
- Banks close accounts of Americans and do not accept Americans as new customers.
- Conclusion: Americans who are law-abiding tax-paying residents of countries outside the U.S. cannot open bank accounts with many banks and their accounts that they have had for a long time can be closed at any time.

This is descrimination against all Americans who choose to live outside of the United States. The United States should adopt an RBT (Residency Based Taxation) like most of the countries in the world. Taxes are levied for goods and services. Americans living outside of the U.S. pay taxes where they reside and receive goods and services. Americans living outside of the U.S. can pay taxes to the U.S., but not receive any goods or services because they don't live in the U.S. The laws are designed to get large corporations to pay tax in the country where they do business. Individuals U.S. citizens get caught up in the law and end up having their bank accounts closed because of it. Please change the law so that Americans living outside of the U.S. do not have to fear that their bank will close their accounts and then they would have no way of paying their taxes in the country where they reside.